

Monday, April 11, 1994

**EIGHTY-FIFTH LEGISLATIVE DAY**

The House met at 5:00 P.M. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Dr. Tom Holland, David Lipscomb University, Nashville, Tennessee.

Representative Fowlkes led the House in the Pledge of Allegiance to the Flag.

**ROLL CALL**

The roll call was taken with the following results:

Present . . . . . 96

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Boyer, Bragg, Brooks, Brown, Buck, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Miree, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

**EXCUSED**

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under Rule No. 20:

Representative U. Jones (Shelby); mother's illness.

**RECOGNITION**

Speaker Naifeh recognized Rep. DeBerry in the well to introduce the "Peacemakers" for a presentation in commemoration of Police Memorial Week.

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**ENROLLED BILLS**

**April 7, 1994**

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bill(s) No(s). 518, 1897, 2404, 2682; House Joint Resolution(s) No(s). 578, 581, 583, 585, 597, 598, 599, 601, 602, 603, 604, 605, 606, 607, 608 and 609; also, House Resolution(s) No(s). 172, 173, 174, 175, 176 and 177.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED**

**April 7, 1994**

The Speaker signed the following: House Bill(s) No(s). 518, 1897, 2404, 2682; House Joint Resolution(s) No(s). 578, 581, 583, 585, 597, 598, 599, 601, 602, 603, 604, 605, 606, 607, 608 and 609; also, House Resolution(s) No(s). 172, 173, 174, 175, 176 and 177.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR**

**April 8, 1994**

MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 1377, 1687, 2085, 2159, 2413, 2535, 2560, 2881, 2882, 2883, 2884, 2885, 2887, 2888 and 2889; also, House Joint Resolution(s) No(s). 538, 539, 541, 543, 546, 547, 548, 549, 550, 551 AND 584; with his approval.

DIANNE F. NEAL, Counsel to the Governor.

**MESSAGE FROM THE SENATE**

**April 11, 1994**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2558; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**MESSAGE FROM THE SENATE**

**April 11, 1994**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2174; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

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MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 691; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, Senate Bill No. 1681.

The Senate nonconcurred in House Amendment(s) No(s). 1.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

REQUEST TO CHANGE VOTE

Pursuant to Rule No. 31, the following member(s) desire to change their original stand from yes to no on House Bill No. 2395 on April 11, 1994, and have this statement entered in the Journal: Rep(s). Hassell.

RULES SUSPENDED

Rep. Windle moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 653 out of order, which motion prevailed.

House Joint Resolution No. 653 -- Memorials, Sports -- 1993-1994 Livingston Academy girls' basketball team, TSSAA Class AA state champions. by \*Windle.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Windle, the resolution was adopted.

A motion to reconsider was tabled.

RECOGNITION

Speaker Naifeh recognized Rep. Windle in the well to introduce the Livingston Academy Womens' Basketball Team, State Champions.

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## RESOLUTIONS

Pursuant to Rule No. 17, the following resolution(s) was/were introduced and placed on the Consent Calendar for Wednesday, April 13, 1994:

House Resolution No. 0179 -- Memorials, Professional Achievement -- Jackie Neely, New Tazewell Merchants Association's Oldest Merchant Award. by \*Williams Micheal.

House Resolution No. 0180 -- Memorials, Interns -- Darell Carl Cook, II. by \*Pinion, \*Cole Ronnie, \*Collier, \*Phelan.

House Resolution No. 0181 -- Memorials, Retirement -- MSgt. Randolph K. Chapman. by \*Cole Ronnie.

House Resolution No. 0182 -- Memorials, Interns -- Lorraine Wade. by \*Dixon, \*Pruitt, \*Armstrong.

House Joint Resolution No. 0651 -- Memorials, Interns -- Tamara Lynn Tyler. by \*Phillips, \*Turner B, \*Moore.

House Joint Resolution No. 0654 -- Memorials, Interns -- Jade Edward Graham. by \*Bell.

House Joint Resolution No. 0655 -- Memorials, Public Service -- Connie Testamand, 1994 Tennessee Jaycee Outstanding Young Tennessean. by \*Bell.

House Joint Resolution No. 0656 -- Memorials, Retirement -- Elmer Ellsworth Turner, III. by \*Joyce.

House Joint Resolution No. 0658 -- Memorials, Sports -- 1993-1994 Riverdale High School girls' basketball team, TSSAA Distinguished Scholastic Achievement Award. by \*Bragg, \*Liles, \*Mires.

House Joint Resolution No. 0659 -- Memorials, Interns -- Antonette Nishell Hornbeak. by \*Jones R, \*Love, \*Tindell.

House Joint Resolution No. 0660 -- Memorials, Interns -- Jerome Keith Kinnard. by \*Love, \*Jones R, \*Tindell.

House Joint Resolution No. 0661 -- Memorials, Public Service -- Louis Jennings. by \*Crain.

House Joint Resolution No. 0662 -- Memorials, Congratulations -- City of Alcoa, 75th anniversary. by \*Owenby, \*Anderson, \*Armstrong.

House Joint Resolution No. 0664 -- Memorials, Sports -- 1993-1994 Scott High School girls' basketball team. by \*Winningham.

House Joint Resolution No. 0665 -- Memorials, Death -- Agnes Thornton Bird. by \*Owenby, \*Anderson, \*DeBerry, \*Turner B, \*Williams Mike, \*Purcell, \*Knight, \*Pruitt, \*Peroulas Draper, \*Duer,

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\*Robinson, \*Brooks, \*Williams K, \*Chumney, \*Armstrong.

### INTRODUCTION OF RESOLUTIONS

On motion, pursuant to Rule No. 17, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

**\*House Resolution No. 0178 -- General Assembly, Studies --** Continues house committee on earthquake preparedness. by \*Kernell, \*Pinion, \*Jones R, \*Phelan, \*Brooks, \*Crain.

Finance, Ways and Means Committee.

**\*House Joint Resolution No. 0647 -- General Assembly, Studies --** Creates special joint committee to study licensing of home inspection contractors. by \*Davis Ronnie.

Commerce Committee.

**House Joint Resolution No. 0663 -- Highway Signs --** "Chris Kilburn Memorial Bridge," Lawrence County. by \*Moore.

Transportation Committee.

**House Joint Resolution No. 0667 -- Highway Signs --** "PFC Ben Wade Stone Memorial Bridge," S.R. 56 on Cumberland River, Jackson County. by \*Winningham.

Transportation Committee.

### INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

**\*House Bill No. 2886 -- Highways, Roads and Bridges --** Allows extension of qualifying deadline in Claiborne County if no opposition candidate for chief administrative officer of county road department qualifies. Amends TCA 54-7-104. by \*Williams Micheal.

**\*House Bill No. 2898 -- Local Education Agency --** Allows Hardemen County to retain six year school board terms. Amends TCA 49-2-201. by \*Walley, \*Crain.

**\*House Bill No. 2902 -- Boards and Commissions --** Allows members of Blount County Commission to serve on certain boards, commissions, committees or authorities over which it has appointing power. by \*Anderson.

**House Bill No. 2904 -- Stone, Stone Products --** Provides for use in Rutherford County of borrow pits for construction purposes, provided material from borrow pit not used for supplying material

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for certain specified plants. by \*Bragg, \*Mires, \*Liles.

~~House Bill No. 2919~~ -- Lebanon -- Revises charter. Amends Chapter 644, Private Acts of 1911, as amended. by \*Bell.

House Bill No. 2922 -- Environmental Preservation -- Creates office of environmental inspector in Tipton County. by \*Naifeh.

#### DELAYED BILLS REFERRED

Pursuant to Rule No. 77, having been prefiled for introduction, House Bill(s) No(s) 2921, 2727 and 2929, was/were referred to the Delayed Bills Committee.

\*House Bill No. 2921 -- Public Works Projects -- Authorizes issuance of bonds for public works projects to pay for financial accommodations necessary to acquire the obligation of users of property within redevelopment or urban renewal plan to maintain their location within such plan area. Amends TCA, Titles 6, 7, 9, 13. by \*Purcell.

\*House Bill No. 2927 -- Auctions and Auctioneers -- Authorizes Tennessee auctioneer commission to waive requirements related to apprentice auctioneer in cases where commission determines such waiver is appropriate. Amends TCA 62-19-111. by \*Williams Micheal.

\*House Bill No. 2929 -- Education, Higher -- Exempts Moody Bible Institute from Postsecondary Education Authorization Act. Amends TCA 49-7-2004. by \*Cole Ralph.

#### SENATE BILLS TRANSMITTED

On motion, the bills listed were held on the Clerk's desk pending third consideration of the Companion House Bill:

\*Senate Bill No. 2068 -- Adoption -- Requires termination of parental rights if parents are unable to care for child; provides for adoption placement. Amends TCA, Title 37. (HB 2097).

\*Senate Bill No. 2211 -- Education, Higher -- Increases from 15 to 20 days time in which support staff of state universities and community colleges may file grievances. Amends TCA, Title 49. (HB 2161).

\*Senate Bill No. 2556 -- Election Laws -- Revises law concerning absentee voting; authorizes early voting. Amends TCA, Title 2, Chs. 2, 3, 5--7, 12, 19. (HB 2430).

\*Senate Bill No. 2577 -- Health -- Requires posting of sign in restroom facilities available to public; sign to read "FOR GOOD HEALTH, PLEASE WASH YOUR HANDS"; failure to post sign subjects entity to civil fine of \$50.00. Amends TCA, Title 68, Ch. 2. (HB 2520).

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**HOUSE BILLS ON SECOND CONSIDERATION**

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

**House Bill No. 2909** -- Unicoi County -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2910** -- Rutherford County -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2911** -- New Johnsonville -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2912** -- Athens -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2913** -- Greene County -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2914** -- Greene County -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2915** -- Livingston -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2916** -- Woodbury -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2917** -- Woodbury -- Held on Clerk's desk pending approval by local delegation.

**House Bill No. 2918** -- Dayton -- Held on Clerk's desk pending approval by local delegation.

**\*House Bill No. 2920** -- County Officers -- Referred to the Judiciary Committee.

**CONSENT CALENDAR**

**House Bill No. 2736** -- Process, Service of -- Permits counties to select from among two statutory methods of serving process in general sessions court of such county; makes Rules 4 and 5 of Rules of Civil Procedure inapplicable to service of process in general sessions court. Amends TCA, Title 8, Ch. 8; Title 16, Ch. 15, Pt. 7.

**House Bill No. 1965** -- Sunset Laws -- Department of commerce and insurance, June 30, 2002. Amends TCA, Title 4, Chs. 3, 29.

On motion, House Bill No. 1965 was made to conform with Senate Bill No. 1889; the Senate Bill was substituted for the House Bill.

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**\*House Bill No. 2683 -- Alcoholic Beverages -- Clarifies distribution process for beer sold by microbreweries. Amends TCA 57-5-201.**

**\*House Bill No. 2306 -- Business and Commerce -- Provides contractual right concerning timing of certain payments when contract calls for one party to reimburse another party for federal manufacturer's excise tax levied under Internal Revenue Code. Amends TCA, Title 47, Ch. 50, Pt. 1.**

**\*House Joint Resolution No. 0590 -- General Assembly, Confirmation of Appointment -- Dr. Ronald P. Butterfield, State Certification Commission.**

**\*House Joint Resolution No. 0591 -- General Assembly, Confirmation of Appointment -- William R. Willis, State Certification Commission.**

**\*House Joint Resolution No. 0587 -- General Assembly, Confirmation of Appointment -- Fred Westbrook, State Forestry Commission.**

**\*House Joint Resolution No. 0586 -- General Assembly, Confirmation of Appointment -- Dr. George Martin Hopper, State Forestry Commission.**

**\*House Joint Resolution No. 0589 -- General Assembly, Confirmation of Appointment -- Giles Nathaniel Replogle, State Forestry Commission.**

**\*Senate Joint Resolution No. 0320 -- Memorials, Government Officials -- Urges governor and department of economic and community development to hold governor's economic conference in all grand divisions on rotating basis.**

**\*Senate Joint Resolution No. 0319 -- Memorials, Government Officials -- Urges encouragement of programs enabling family bonding and making visitation priority for correctional institutions.**

**House Bill No. 2903 -- Hohenwald -- Provides supplemental health insurance for certain mayor or council members. Amends Chapter 308, Private Acts of 1923, as amended.**

**House Joint Resolution No. 0643 -- Memorials, Sports -- Tommy Fox.**

**House Joint Resolution No. 0644 -- Memorials, Sports -- Amy Robertson.**

**House Joint Resolution No. 0645 -- Memorials, Professional Achievement -- Kingsport Area Safety Council, 50th anniversary.**

**House Joint Resolution No. 0646 -- Memorials, Recognition and Thanks -- Grace Curtis Sills.**



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**House Joint Resolution No. 0648 -- Memorials, Sports --**  
1993-1994 Oneida High School girls' basketball team, TSSAA Class A  
state championship.

**House Joint Resolution No. 0649 -- Memorials, Public Service --**  
Memphis Peacemakers Music Group.

**House Joint Resolution No. 0650 -- Memorials, Personal Occasion**  
-- Richard and Louise Knight, 50th wedding anniversary.

**Senate Joint Resolution No. 0399 -- Memorials, Personal Occasion**  
-- Vicie Haney Mitchel, 94th birthday.

**Senate Joint Resolution No. 0400 -- Memorials, Interns --**  
Courtney I. Smith.

**Senate Joint Resolution No. 0401 -- Memorials, Academic**  
Achievement -- Peter M. Meenen III, Salutatorian, Ezell Harding  
Christian School.

**Senate Joint Resolution No. 0402 -- Memorials, Academic**  
Achievement -- Lori Beth Cowan, Valedictorian, Gordonsville High  
School.

**Senate Joint Resolution No. 0403 -- Memorials, Academic**  
Achievement -- Travis Bush, Salutatorian, Gordonsville High School.

**Senate Joint Resolution No. 0404 -- Memorials, Academic**  
Achievement -- Carl Ray Conway, Jr., Valedictorian, Ezell Harding  
Christian School.

**Senate Joint Resolution No. 0408 -- Memorials, Interns --** Will  
Pinkston.

**Senate Joint Resolution No. 0409 -- Memorials, Sports --** Perry  
County boys' basketball team, TSSAA state tournament participant.

**Senate Joint Resolution No. 0410 -- Memorials, Congratulations**  
-- Macon County High School Interact Club.

**Senate Joint Resolution No. 0411 -- Memorials, Sports --** Happy  
Valley High School boys' basketball team.

**Senate Joint Resolution No. 0412 -- Memorials, Sports --**  
1993-1994 Happy Valley High School girls' basketball team, TSSAA  
State Tournament participants.

**Senate Joint Resolution No. 0413 -- Memorials, Recognition and**  
Thanks -- Jack Tolley.

**Senate Joint Resolution No. 0414 -- Memorials, Recognition and**  
Thanks -- Carter County 4-H Forestry Team.

**Senate Joint Resolution No. 0415 -- Memorials, Death --** Buddy  
Morgan, former mayor of Columbia.

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Senate Joint Resolution No. 0416 -- Memorials, Public Service --  
Madison Kiwanis Club.

Senate Joint Resolution No. 0449 -- Memorials, Retirement --  
Senator Lou Patten.

Senate Joint Resolution No. 0450 -- Memorials, Retirement --  
Senator Ronnie Greer.

Senate Joint Resolution No. 0427 -- Memorials, Professional  
Achievement -- Anita Baltimore, Designer of the Year.

Senate Joint Resolution No. 0428 -- Memorials, Interns --  
Jennifer Stribling.

### OBJECTION -- CONSENT CALENDAR

Objection(s) was/were filed to the following on the Consent  
Calendar:

House Bill No. 2683; by Rep. Bittle.

Under the rules, House Bill No. 2683 was/were placed at the foot  
of the calendar for Wednesday, April 13, 1994.

Pursuant to Rule No. 50, Rep. Phillips moved that all House  
Bills having companion Senate Bills and are on the Clerk's desk be  
conformed and substituted for the appropriate House Bill, all Senate  
and House Bills on the Consent Calendar be passed on third and final  
consideration, all House Resolutions and House Joint Resolutions be  
adopted, and all Senate Joint Resolutions on the Consent Calendar be  
concurrent in, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong,  
Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd,  
Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole  
(Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer,  
Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman  
Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey,  
Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber,  
Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller,  
Mires, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips,  
Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks,  
Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce,  
Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable,  
Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams  
(Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr.  
Speaker Naifeh -- 96.

A motion to reconsider was tabled.

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MESSAGE FROM THE SENATE

April 11, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2020; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

\*Senate Bill No. 2020 -- Real Property -- Enacts "Tennessee Residential Property Disclosure Act". Amends TCA, Title 66, Ch. 5. by \*Gilbert, \*O'Brien, \*Rice, \*Person.

REGULAR CALENDAR

\*House Bill No. 2380 -- Agriculture, Dept. of -- Revises certain fees imposed by the department of agriculture, plant industries division. Amends TCA, Titles 43, 62.

Further consideration of House Bill No. 2380, previously considered on March 24 and April 7, 1994, at which time Amendments Nos. 1, 2, and 3 were withdrawn; the motion was made to adopt Amendment No. 4, and it was reset to the Calendar for April 11, 1994.

Rep. Walley moved that House Bill No. 2380 be reset to the Calendar for Wednesday, April 13, 1994, which motion prevailed.

House Bill No. 2457 -- Real Property -- Enacts "Tennessee Residential Property Disclosure Act". Amends TCA, Title 66, Ch. 5.

Further consideration of House Bill No. 2457, previously considered on April 4, 1994, at which time reset to the Calendar for April 11, 1994.

Rep. Collier requested that House Bill No. 2457 be moved down 10 places on the Calendar.

House Bill No. 2833 -- Motor Vehicles, Titling and Registration -- Authorizes issuance of special license plates for honorably discharged veterans of United States armed forces. Amends TCA, Title 55, Ch. 4.

Further consideration of House Bill No. 2833, previously considered on April 4, 1994, at which time it was reset to the Calendar for April 11, 1994.

On motion, House Bill No. 2833 was made to conform with Senate Bill No. 2794; the Senate Bill was substituted for the House Bill.

Rep. Hillis moved that Senate Bill No. 2794 be passed on third and final consideration.

On motion, Rep. Robinson withdrew Transportation Committee

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Amendment No. 1.

Rep. Fisher moved that Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Hillis moved to adopt Amendment No. 3 as follows:

**Amendment No. 3**

Amend Senate Bill No. 2794 by deleting Senate Amendments Numbers 3 and 5 in their entirety.

AND FURTHER AMEND by deleting Section (c)(4)(2) in its entirety and by substituting instead the following:

The design of such special plates as are issued shall bear the name of the county of issue on the lower edge of the tag. For honorably discharged veterans, the American flag will be in the center of the tag. For Vietnam veterans, who are honorably discharged, the center emblem will be crossed American and Republic of Vietnam flags. A southeast Asia campaign medal must have been awarded in order to obtain the Vietnam veteran tag.

Rep. Williams (Shelby) requested that Senate Bill No. 2794 be moved down 5 places on the Calendar.

**REGULAR CALENDAR, CONTINUED**

**\*House Bill No. 2442 -- TennCare --** Establishes select oversight committee on TennCare. Amends TCA, Title 3, Ch. 15.

Rep. Herron moved that House Bill No. 2442 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

**Amendment No. 1**

Amend House Bill No. 2442 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 15, is amended by adding Sections 2 through 10 as new, appropriately designated sections.

**SECTION 2.**

(a) In order to improve and promote accessible and affordable health care for all Tennesseans, to create a better environment for management, and to ensure the successful implementation of TennCare, there is hereby created the Select Oversight Committee

on TennCare, hereinafter referred to as "the committee".

(b) The committee shall be composed of fourteen (14) members, with seven (7) members to be appointed by the speaker of the senate and seven (7) members to be appointed by the speaker of the house of representatives.

SECTION 3.

(a) The committee shall elect from its membership a chairman, a vice-chairman, and such other officers as it considers necessary.

(b) The committee may also:

(1) Create subcommittees related to its purposes; and

(2) Create an advisory panel comprised of representatives including, but not limited to, business, insurance, hospitals, physicians, and consumers; and

(3) Request that standing committees of the general assembly, the fiscal review committee, or other agencies study certain aspects of the TennCare program and report to the committee; and

(4) Conduct hearings; and

(5) Employ staff, subject to the availability of funds; and

(6) Enter contracts for technical or professional services, subject to the availability of funds; the speaker of the senate and the speaker of the house shall jointly determine the qualifications and task or job descriptions of any consultant or other person contracted for services, and shall jointly select any such consultant or other person on behalf of the committee; and

(7) Perform such other duties as are required.

SECTION 4.

(a) The committee shall meet at least quarterly and at the call of the chairman. The first meeting of the committee shall be convened by the speaker of the senate.

(b) Members of the committee are entitled to be reimbursed for their expenses in attending meetings of the committee or any subcommittees thereof at the same rates and in the same manner as when attending the general assembly.

SECTION 5. The committee shall report on its activities to each member of the general assembly.

SECTION 6.

(a) It is the intent of this part that plans be made carefully and be reviewed thoroughly to help ensure that the TennCare program will achieve its intended purpose, to help ensure that access and quality of health care are maintained for TennCare enrollees and to help ensure that the general assembly and the public can have confidence that the state will deliver a TennCare program which is effective and efficient.

(b) To these ends, the committee shall review proposed expenditures for TennCare and shall make its comments on proposed expenditures in a timely fashion according to this section:

(c) Any proposed expenditure of funds, including TennCare funds to managed care organizations (MCOs) or the distribution of supplemental pool funds to providers, any administrative or management changes requiring additional expenditures, any proposed expenditure for expanding or otherwise changing the TennCare program, shall be filed in writing by the commissioner of health with the committee and may be reviewed by the committee. After any such review, the committee may comment to the commissioner of finance and administration on the proposed expenditures, provided that any such comment shall be made within thirty (30) days after receipt by the committee of the proposal for such expenditures. If such expenditures are made before the committee has made its comments, if any, or if expenditures are made which are inconsistent with the comments of the committee, the commissioner of finance and administration shall explain in writing the reasons for making such expenditures to the committee and each other member of the general assembly.

SECTION 7. The committee shall receive information and assistance from the department of health, the department of mental health, and other agencies of state government, as necessary.

SECTION 8. The committee shall review regularly the following programs, functions and activities of the department of health and the TennCare program:

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(1) Eligibility and enrollment standards, including determinations of how TennCare enrollees are assigned to MCOs, or other matters related to eligibility and assignment of TennCare enrollees; and

(2) Provisions of services, facilities or programs by TennCare providers, including TennCare's standard benefit package or other related matters; and

(3) Education programs for TennCare enrollees, MCOs and providers, including eligibility, access to TennCare providers and MCOs, benefit package offered, deductibles and co-payments required, or other related matters; and

(4) Review and evaluation of performance of TennCare MCOs, including their compliance with contracts entered into with the state, review of MCO contracts entered into with any TennCare provider, or other related matters; and

(5) Compliance by the department with provisions of the TennCare federal waiver including review of proposed amendments to the waiver for system changes, and evaluations or reports prepared for or by the federal government, or other related matters; and

(6) Staffing within the department: including recruitment, selection, training, compensation, discipline, or other matters; and

(7) Management: including planning, budgeting, information systems, organizational structure, rules and regulations, department policies and procedures or other related matters; and

(8) Any other matters considered material.

#### SECTION 9.

(a) When any bill is introduced in the general assembly that will impact or potentially impact upon any area within the scope of review of the committee, as set out in this chapter, the clerk shall at the same time such bill is referred to the appropriate standing committee, notify the chair of the oversight committee of such bill and transmit a copy of such bill to the oversight committee. For purposes of participating in the discussions and comments of the oversight committee, the oversight committee chair shall notify the chair or the chair's designee of the standing committee of the date, time, and location where the oversight committee will meet to review legislation which has been assigned to the standing committee, and such chair or the chair's designee

shall become an ex officio member of the oversight committee when the oversight committee considers such legislation.

(b) In order to efficiently execute the duties set out in this chapter, the committee shall review all bills transmitted to it as provided in subsection (a) and may attach committee comments to such bill prior to its consideration by the appropriate standing committee. The sole purpose of review by the committee is to assist the standing committee in its consideration of TennCare related legislation by providing appropriate background information on the bill or information concerning the impact of the bill on the TennCare program. The committee shall make no recommendation concerning the passage of a bill it reviews nor shall it have the authority to prevent the consideration of the bill by the standing committee to which it is referred. The committee's review of all bills transmitted to it pursuant to subsection (a) of this section shall be completed and the notification required in subsection (c) returned to the chair of the appropriate standing committee no later than four (4) weeks after a bill covered by the provisions of this section has first been introduced.

(c) Upon completion of the review process within the time limitation established in subsection (b) of this section, the chair of the oversight committee shall send written notification to the chair of the appropriate standing committee indicating that the review process has occurred and that the bill is ready for consideration by the standing committee. If the oversight committee has prepared committee comments on a bill, such comments shall be attached to the notification to the chair. If the committee has reviewed a bill but has no committee comments, that shall be indicated in the notification to the chair. If a bill is referred to the committee for review but has not been reviewed within the time period set out in subsection (b), the chair shall notify the appropriate chair that the bill has not been reviewed but is ready for consideration by the standing committee.

#### SECTION 10.

(a) The committee created by this part shall continue only until the operations of the department of health have improved substantially so that such oversight is no longer needed. It is the intent of the general assembly that improvement be accomplished in a timely fashion.

(b) To these ends, the committee created by this



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part will terminate at the adjournment of the regular session of the general assembly convened in 1997. The general assembly may continue the committee for two (2) years by appropriate action during such regular session.

(c) For the regular session of the general assembly which convenes in 1995, the speaker of the senate shall appoint seven (7) senators to be members of the committee and the speaker of the house of representatives shall appoint seven (7) representatives. The respective speakers shall reappoint or appoint new members to the oversight committee for each subsequent regular session of the general assembly for the duration of the committee.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Herron moved that House Bill No. 2442 be passed on third and final consideration.

#### MESSAGE FROM THE SENATE

April 11, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2581; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

Senate Bill No. 2581 -- TennCare -- Establishes select oversight committee on TennCare. Amends TCA, Title 3, Ch. 15. by \*Hamilton.

#### MOTION TO RECONSIDER

Rep. Herron moved to lift from the table the motion to reconsider House Bill No. 2442, which motion prevailed.

On motion, House Bill No. 2442 was made to conform with Senate Bill No. 2581; the Senate Bill was substituted for the House Bill.

Rep. Herron moved that Senate Bill No. 2581 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	93
Noes. . . . .	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd,

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Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Hatteman Harwell, Hargrove, Hassell, Haun, Head, Hills, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh 93.

Representatives voting no were: Meyer -- 1.

A motion to reconsider was tabled.

\*House Bill No. 1717 -- DUI/DWI Offenses -- Allows judge to order ignition interlock device on car used to commit DUI during time of operator's driver license suspension if he has prior conviction for driving on suspended license or if license was suspended at time of DUI. Amends TCA 55-10-412.

On motion, House Bill No. 1717 was made to conform with Senate Bill No. 1767; the Senate Bill was substituted for the House Bill.

Rep. Herron moved that Senate Bill No. 1767 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

#### Amendment No. 1

Amend Senate Bill No. 1767 by deleting from the first sentence of subsection ( ) (1) of the amendatory language of SECTION 1 the words "used to commit" and substituting instead the words "owned or operated by a person or a family member of such person to commit".

On motion, Amendment No. 1 was adopted.

Rep. Herron moved that Senate Bill No. 1767, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes . . . . . 94  
Noes . . . . . 0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer),

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Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitsdn, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

\*House Bill No. 2153 -- Criminal Offenses -- Adopts Wiretapping and Electronic Surveillance Act of 1993; removes as criminal or prohibited act to knowingly "tap" current or line, cable or other feature of utility company. Amends TCA, Titles 20, 24, 39, 40, 65.

Rep. Herron moved that House Bill No. 2153 be passed on third and final consideration.

Rep. Buck requested that Judiciary Committee Amendment No. 1 be moved to the heel of the Amendments.

Rep. Buck requested that Judiciary Committee Amendment No. 2 be moved to the heel of the Amendments.

Rep. Buck moved to adopt Amendment No. 3, seconded by Rep. Herron, as follows:

Amendment No. 3

Amend House Bill No. 2153 by deleting all the language following the enacting clause and by substituting instead the following:

Section 1. In order to protect the privacy of wire, oral, and electronic communications, to protect the integrity of court and administrative proceedings, to define, on a uniform basis, the circumstances under which a District Attorney General may apply to a court of competent jurisdiction for the interception and use of wire, oral, and electronic communications, to define the circumstances under which a judge in a court of competent jurisdiction may authorize the interception and use of wire, oral and electronic communications, and to prohibit any unauthorized interception or use of such communications, it is necessary for the Legislature to define the circumstances and conditions under which the interception of wire, oral and electronic communications may be lawful. In defining these circumstances, the Legislature seeks to strike a balance

between an individual's right to privacy and society's legitimate concern in being protected from criminal activity.

In carrying out illegal activities, criminals often make extensive use of wire, oral and electronic communications. The lawful interception of these communications is an indispensable aid to investigative and law enforcement officials in obtaining evidence of illegal activities. Likewise, it is necessary for the Legislature to safeguard the privacy of innocent persons. Through this act the Legislature seeks to prohibit the unauthorized interception of wire, oral and electronic communications and to prohibit the use of illegally-obtained wire, oral, and electronic communications as evidence in courts and administrative proceedings. The interception of wire, oral or electronic communications, therefore, when no party to the communications has consented to the interception, should be allowed only under compelling circumstances when authorized and supervised by a court of competent jurisdiction and upon a finding of probable cause. Court authorization and supervision ensures that the interception is made only in narrowly defined circumstances and that the information obtained will not be misused. The privacy rights of Tennessee citizens are further protected by limiting the interception of wire, oral, and electronic communications to certain major types of felonies under the Tennessee Code.

Section 2. This act shall be known and may be cited as the "Wiretapping and Electronic Surveillance Act of 1994."

Section 3. As used in this act, unless the context indicates otherwise:

(1) "Actual damages" means damages given as compensation; damages given as an equivalent for the injury done; damages in satisfaction of, or in recompense for, loss or injury sustained; those damages awarded to a person as compensation, indemnity, or restitution for harm sustained by the person.

(2) "Aggrieved person" means a person who was a party to an intercepted wire, oral or electronic communication, or a person against whom the interception was directed;

(3) "Attorney General" means the Attorney General and Reporter of the State of Tennessee;

(4) "Contents" when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or

meaning of that communication;

(5) "Court of record" means any Circuit or Criminal Court in the state of Tennessee;

(6) "District Attorney General" means the District Attorney General of the judicial district where the interception of communications is to occur;

(7) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by the aid of wire, radio, electromagnetic, photooptical, and photoelectronic facilities, but does not include:

(a) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

(b) any wire or oral communication;

(c) any communication made through a tone-only paging device; or

(d) any communication from a "tracking device" (as defined in 18 U.S.C. 3117);

(8) "Electronic communications service" means any service which provides to users thereof the ability to send or receive wire or electronic communications;

(9) "Electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire, oral, or electronic communication other than:

(a) any telephone or telegraph instrument, equipment or facility, or any component thereof;

(i) furnished to the subscriber or user by a provider of wire or electronic service in the ordinary course of business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; or

(ii) being used by a provider of wire or electronic communication service in the ordinary course of its business; or

(iii) being used by an investigative or law enforcement officer in the ordinary course of his or her duties;

(b) a hearing aid or similar device being used to correct sub-normal hearing to not better than normal;

(10) "Electronic storage" means:

(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

(11) "Intercept" means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device;

(12) "Investigative or law enforcement officer" means:

(a) in all counties having a population in excess of two hundred and fifty thousand (250,000) according to the 1990 federal census of population or any subsequent federal census:

(1) any officer of the state or a political subdivision of the state, who:

(A) is empowered by law to conduct investigations of or to make arrests for offenses enumerated in Section 6 of this act; and

(B) has successfully completed a training course on the interception and use of wire, oral and electronic communications approved by the Tennessee peace officer standards and training commission or the Tennessee bureau of investigation; or

(2) any attorney authorized by law to prosecute such offenses; and

(b) In all other counties:

(1) an agent of the Tennessee bureau of investigation, who:

(A) is empowered by law to conduct investigations of or to make arrests for offenses enumerated in Section 6 of this act; and

(B) has successfully completed a training course on the interception and use of wire, oral and electronic communications approved by the bureau; or

(2) any attorney authorized by law to prosecute such offenses;

(13) "Judge of competent jurisdiction" means a judge presiding over any court of record as defined in this act in the state of Tennessee;

(14) "Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

(15) "Provider of wire or electronic communications service" means an entity which holds itself out to the public as engaged in the business of transmitting messages through the use of wire communication or electronic communication, as both terms are defined in this Section;

(16) "Readily accessible to the general public" means, with respect to a radio communication, that such communication is not:

(A) scrambled or encrypted;

(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communications;

(C) carried on a subcarrier or other signal subsidiary to a radio transmission; or

(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication.

(17) "Recorded device" means the tangible medium upon which sounds and/or images are

recorded or otherwise stored, which includes any original phonograph record, disk, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds and/or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;

(18) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged as a provider of wire or electronic communications service in providing or operating such facilities for the transmission of communications and such term includes any electronic storage of such communication, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

Section 4. (1) Except as otherwise specifically provided in this act, a person commits an offense who:

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(b) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

(ii) such device transmits communications by radio, or interferes with the transmission of such communication;

(c) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or



(d) intentionally uses, or endeavors to use, the contents of any wire, oral or electronic communication, knowing or having reason to know, that the information was obtained through the interception of a wire, oral or electronic communication in violation of this subsection.

(e) A violation of Section 4(1)(a)--(d) shall be punished as provided in Section 10 and shall be subject to suit as provided in Section 11.

(2)(a) It shall be lawful under this act for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communications service, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of employment while engaged in any activity which is necessary to the rendition of service or to the protection of the rights or property of the provider of that service, except that a provider of wire communications service to the public shall not utilize "service observing" or "random monitoring" except for mechanical or service quality control checks.

(b) Notwithstanding any other law, providers of wire or electronic communications service, their officers, employees, or agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications if such provider, its officers, employees, or agents, landlord, custodian or other specified person, has been provided with a court order signed by the authorizing judge of competent jurisdiction which:

(i) directs such assistance;

(ii) sets forth a period of time during which the provision of the information, facilities, or technical assistance is authorized; and

(iii) specifies the information, facilities, or technical assistance required.

No provider of wire or electronic communications service, officer, employee, or agent thereof, or landlord, custodian or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the

person has been furnished a court order, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the District Attorney General or any political subdivision of a district, as may be appropriate. Any such disclosure, shall render such person liable for the civil damages provided for in Section 11 of this Act. No cause of action shall lie in any court against any provider of wire or electronic communications service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter.

(c) It is lawful under this act for a person acting under the color of law to intercept a wire, oral or electronic communication, where the person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It is lawful under this act for a person not acting under color of law to intercept a wire, oral, or electronic communication where the person is a party to the communication or where one of the parties to the communication has given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the state of Tennessee.

(e) It is unlawful to intercept any wire, oral, or electronic communication for the purpose of committing a criminal act.

(f) It is lawful under this act, unless otherwise prohibited by state or federal law, for any person:

(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general public;

(ii) to intercept any radio communication which is transmitted:

(A) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress; or

(B) by any governmental, law enforcement, civil defense, private land

mobile, or public safety communications system, including police and fire, readily accessible to the general public; or

(C) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(D) by any marine or aeronautical communications system;

(iii) to intercept any wire or electronic communication the transmission of which is causing harmful interference with any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(iv) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

(3)(a) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing electronic communication service to the public may divulge the contents of any such communication:

(i) as otherwise authorized in subsections (2)(a) and (2)(b) of this section or Section 7 of this act;

(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence

is made to a law enforcement agency.

Section 5. (1) Each application for an order authorizing the interception of a wire, oral, or electronic communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction in the circuit where the interception of wire, oral or electronic communications is to occur. The application shall state the investigative or law enforcement officer's authority to make such application and shall include the following information:

(a) identity of the investigative or law enforcement officer making the application, and the District Attorney General authorizing the application;

(b) a full and complete statement of the facts and circumstances relied upon by the applicant to justify his or her belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of all persons, if known, committing the offense and whose communications are to be or may be intercepted;

(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(d) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(e) a full and complete statement of the facts concerning all previous applications known to the individuals authorizing and making the application, made to any judge for authorization to intercept wire, oral or electronic

communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each such application; and

(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing interception of wire, oral, or electronic communications within the circuit in which the judge is sitting, (and outside that circuit but within the state of Tennessee in the case of a mobile interception device) if the judge determines on the basis of the facts submitted by the applicant that:

(a) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in Section 6 of this act;

(b) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(d) there is probable cause for belief that the facilities from which, or the place where, the wire, oral or electronic communications are to be intercepted are being used, or about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(4) Each order authorizing the interception of any wire, oral or electronic communication under this act shall specify:

(a) the identity of all persons, if known, whose communications are to be or may be intercepted;

(b) the nature and location of the

communications facilities as to which, or the place where, authority to intercept is granted;

(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

An order authorizing the interception of a wire, oral or electronic communication under this act shall, upon the request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish the applicant with all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider, landlord, custodian, or person is according to the person whose communications are to be intercepted. Any provider of wire or electronic communication service, landlord, custodian, or other person furnishing such facilities or technical assistance shall be compensated by the applicant for reasonable expenses incurred in providing such facilities or assistance.

(5) No order entered under this Section may authorize or approve the interception of any wire, oral or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty (30) days. Such thirty (30) day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten (10) days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty (30) days. Every order and extension thereof shall contain a provision that the authorization to

intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this act, and must terminate upon attainment of the authorized objective, or in any event in thirty (30) days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this act may be conducted in whole or in part by state personnel, or by an individual operating under a contract with the state, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(6)(a) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this act shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under the judge's direction. All recordings of wire, oral, or electronic communications shall be treated as confidential and shall not be open for inspection by members of the public. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing judge and in any event shall be kept for ten (10) years. Provided, however, upon the agreement of the person whose communications were intercepted, or such person's counsel, and the appropriate district attorney general, the issuing judge may order the destruction of all such recordings at any time. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of Section 7 of this act for investigations, upon an order of the issuing judge. All duplicate recordings or written transcripts shall be treated as confidential and shall not be open for inspection by members of the public. Upon an order of the issuing judge, the contents of any wire, oral, or electronic communication may be unsealed and used while giving testimony, pursuant to the provisions under subsection (3) of Section 7. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire,

oral or electronic communication or evidence derived therefrom under subsection (3) of Section 7. All wire, oral, or electronic communications that are not disclosed while giving testimony retain their confidential character and shall not be open for inspection by members of the public. Immediately following duplication or use while giving testimony, the recordings shall be returned to the judge issuing the order and resealed under the judge's direction.

(b) Applications made and orders granted under this act shall be treated as confidential and shall not be open for inspection by members of the public. Applications and orders shall be sealed by the judge and custody shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge and in any event shall be kept for ten (10) years. Provided, however, upon the agreement of the person named in the order or application, or such person's counsel, and the appropriate district attorney general, the issuing judge may order the destruction of all such applications and orders at any time.

(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(d) Within a reasonable time, but not later than ninety (90) days after the termination of an order of approval under subsections (3) and (4) of Section 5, or an order authorizing an extension under subsection (5) of Section 5, or the denial of an order under subsection (3) of Section 5, the issuing or denying judge shall cause to be served on the persons named in the order or application and such other parties to intercepted communications as the judge may determine in his or her discretion that is in the interest of justice, an inventory which shall include notice of:

(i) the fact of entry of the order or the application;

(ii) the date of the entry and the period of authorized interception; or the denial of the application; and

(iii) the fact that during the period wire, oral, or electronic communications were or were not intercepted.

The judge, upon the filing of a motion, may in his or her discretion make available to such person or



the person's counsel for inspection such portions of the intercepted communications, applications, and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed for ninety (90) days. At the end of this period, the judge may allow additional ninety (90) day extensions, but only on further showing of good cause.

(7) The contents of any intercepted wire, oral, or electronic communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a state court unless each party, not less than ten (10) days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized. This ten (10) day period may be waived by the judge if the judge finds that it was not possible to furnish the party with the above information ten (10) days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(8) (a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the state of Tennessee or a political subdivision of the state may move to suppress the contents of any intercepted wire, oral, or electronic communication, or evidence derived therefrom on the grounds that:

(i) the communication was unlawfully intercepted;

(ii) the order of authorization under which it was intercepted is insufficient on its face; or

(iii) the interception was not made in conformity with the order of authorization. Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, oral or electronic communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this act. The judge, upon the filing of such motion by the aggrieved person, may in his or her discretion make available such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interest of justice.

(b) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the district attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty (30) days after the date the order was entered and shall be diligently prosecuted.

Section 6. A District Attorney General may apply to a judge of competent jurisdiction for, and such judge may grant, in conformity with Section 5 of this act, an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made when such interception may provide evidence of:

(i) the commission of criminal homicide, as defined in T.C.A. 39-13-201; or

(ii) criminal conspiracy, as defined in T.C.A. 39-12-102, to commit criminal homicide.

Section 7. (1) Any investigative or law enforcement officer who, by any means authorized by this act, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this act, has obtained knowledge of the contents of any wire, oral or electronic communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of the officer's official duties.

(3) Any person who has received, by any means authorized by this act, any information concerning a wire, oral or electronic communication, or evidence derived therefrom intercepted in accordance with the provisions of this act may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the state of Tennessee or a political subdivision thereof, or of the United States, or a political subdivision thereof.

(4) No otherwise privileged wire, oral or electronic

communication intercepted in accordance with, or in violation of the provisions of this act shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, oral or electronic communications in the manner authorized herein, intercepts wire, oral or electronic communications relating to offenses other than those specified in the order of authorization, the contents thereof and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this act. Such application shall be made as soon as practicable after the interception.

Section 8. Whenever a wire, oral or electronic communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in a trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state of Tennessee, or a political subdivision of the state if the disclosure of that information would be in violation of this act.

Section 9. (1) Within thirty (30) days after the expiration of an order (or each extension thereof) entered under subsections (3) and (5) of Section 5, or the denial of an order approving an interception, the issuing or denying judge shall report to the Attorney General:

(a) the fact that an order or extension was applied for;

(b) the kind of order or extension applied for;

(c) the fact that the order or extension was granted as applied for, was modified, or was denied;

(d) the period of interceptions authorized by the order and the number and duration of any extensions of the order;

(e) the offense specified in the order or application, or the extension of an order;

(f) the identity of the applying investigative or law enforcement officer or agency making the application and the person authorizing the application; and

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(g) the nature of the facilities from which, or the place where, communications were to be intercepted.

(2) In January of each year the Attorney General shall report to the Administrative Office of the United States Courts, and the Speaker of the Senate and the Speaker of the House of Representatives of the General Assembly of Tennessee:

(a) the information required by paragraphs (a) - (g) of subsection (1) of this section with respect to each application for an order or extension made during the preceding calendar year;

(b) a general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, and (iv) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(c) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(d) the number of trials resulting from such interceptions;

(e) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(f) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and the general assessment of the importance of the interceptions; and

(g) the information required by paragraphs (b) - (f) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

(3) Whenever an order authorizing interception is entered pursuant to subsection (3) of Section 5 of this act, the order shall require that reports be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Reports shall be made at ten (10) day intervals, with the first report required on the tenth (10th) day after the order is entered. In the event of an extension under subsection (5) of Section 5 of this act, a new ten (10) day reporting requirement will begin, with a report required on the tenth (10th) day after

the extension is granted.

Section 10. Any person who violates Section (4)(1) of this act shall be guilty of a Class D Felony as defined in T.C.A Section 40-35-110.

Section 11. (1) Except as provided in subsection (2)(b) of Section 4 of this act, any aggrieved person whose wire, oral or electronic communication is intentionally intercepted, disclosed, or used in violation of this act may in a civil action recover from the person or entity which engaged in that violation such relief as follows:

(i) the greater of:

(A) the sum of the actual damages, including any damage to personal or business reputation or relationships, suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of \$100 a day for each day of violation or \$10,000, whichever is greater; and

(ii) punitive damages; and

(iii) a reasonable attorney's fee and other litigation costs reasonably incurred.

(2) Any person whose wire, oral, or electronic communication is or is about to be intercepted, disclosed, or used in violation of this act may seek to enjoin and restrain such violation and may in the same action seek damages as provided by subsection (1) of this section.

(3) It is a complete defense against any civil or criminal action brought under this act that there was good faith reliance on a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization, or if there was a good faith determination that subsection 3 of Section 4 of this act permitted the conduct complained of.

(4) A civil action under this act may not be commenced later than two (2) years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

Section 12(a) Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining an order from a court of competent jurisdiction.

(b) The prohibition of subsection (a) does not apply

with respect to the use of a pen register or a trap and trace device by:

(1) a provider of electronic or wire communication service relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

(2) a provider of electronic or wire communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider of communication service, or the user of that service, from fraudulent, unlawful or abusive use of service; or

(3) a provider of electronic or wire communication service where the consent of the user of that service has been obtained; or

(4) an investigative or law enforcement officer authorized to install such devices by this section or a person acting under a contract or agreement of assistance with the law enforcement agency, or who acted with the consent of the party called or the party calling; or

(5) when used in conjunction with an emergency assistance telecommunication service or a 911 emergency service.

(c) Whoever intentionally violates the provisions of subsection (a) shall be guilty of a class B misdemeanor.

(d) An investigative or law enforcement officer may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device under this section. Installation and use of such a pen register or a trap and trace device shall only be authorized for the investigation of one of the offenses specified in Section 6 of this act. The application shall be approved by the district attorney general or his assistant.

(e) An application under subsection (d) of this section shall be made in writing and under oath and include the following:

(1) the identity of the investigative or law enforcement officer and a certification that the applicant is qualified under this section to make the application; and

(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing homicide or conspiracy to commit homicide investigation being conducted by that agency.

(3) the authorization of the district attorney general or his assistant.

(f)(1) Upon an application made under subsection (e) of this section, the judge shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device if the judge finds that the investigative or law enforcement officer has certified to the judge in a written application under oath that the information likely to be obtained by such installation and use is relevant to an ongoing homicide or conspiracy to commit homicide investigation.

(2) An order under this section shall include the following:

(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;

(B) the identity, if known, of the person who is the subject of the homicide or conspiracy to commit homicide investigation;

(C) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order;

(D) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates;

(E) upon request of the applicant, shall direct the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device;

(F) an order that the application and order granting the application be sealed and the location where the order is to be maintained; and

(G) an order that the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the judge to provide assistance

to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless otherwise ordered by the judge.

(3) An order issued under this subsection shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty (60) days. An extension of such order may be granted upon a finding of the requirements of subpart (1) of this subsection and for a period not to exceed sixty (60) days.

(g) Upon request of an investigative or law enforcement officer authorized to install and use a pen register or a trap and trace device, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such officer forthwith all information, facilities, and technical assistance necessary to implement the order of the judge unobtrusively and with a minimum of interference with the services that the person so ordered by the judge accords the party with respect to whom the installation and use to take place, if such assistance is ordered by the judge.

(h) A provider of wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(i) No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this subsection. A good faith reliance on a court order under this subsection is a complete defense against any civil or criminal action brought under this section.

Section 13. Notwithstanding any other provision of law to the contrary, the provisions of this act shall govern the interception and use of wire, oral and electronic communications in this state.

Section 14. Any ambiguity in this act shall be resolved in favor of the aggrieved party and against the state.

Section 15. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions.



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or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

Section 16. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 2.

Rep. Herron moved that House Bill No. 2153, as amended, be passed on third and final consideration.

Rep. Severance moved the previous question, which motion failed by the following vote:

Ayes. . . . .	49
Noes. . . . .	39
Present and not voting. . . . .	3

Representatives voting aye were: Anderson, Armstrong, Arriola, Bell, Boyer, Buck, Byrd, Chiles, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davis, Dixon, Halteman Harwell, Hassell, Head, Huskey, Jackson, Johnson, Kent, Kieber, Love, McKee, Meyer, Mires, Moore, Odom, Owenby, Phillips, Pinion, Pruitt, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stulce, Tindell, Turner (Hamilton), Watley, West, Williams (Union), Windle, Winningham, Wix -- 49.

Representatives voting no were: Allen, Bittle, Bragg, Brown, Callicott, Chumney, Davidson, DeBerry, Duer, Ferguson, Fowlkes, Garrett, Givens, Gunnels, Haley, Haun, Hills, Joyce, Kernell, Lewis, Liles, McAfee, McDaniel, Miller, Napier, Peroulas Draper, Phelan, Ramsey, Rhinehart, Ridgeway, Stockburger, Thompson, Turner (Shelby), Venable, Westmoreland, Whitson, Williams (Shelby), Williams (Williamson), Wood -- 39.

Representatives present and not voting were: Brooks, Knight, Purcell -- 3.

Rep. Herron requested that House Bill No. 2153 be moved to the heel of the Calendar.

Rep. Haley moved that House Bill No. 2153 be re-referred to the Judiciary Committee, which motion he then withdrew.

Rep. Herron moved that House Bill No. 2153 be reset to the Calendar for Thursday, April 14, 1994, which motion prevailed.

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MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, Senate Bill No. 1774, as requested.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1704; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

REGULAR CALENDAR, CONTINUED

House Bill No. 1766 -- Tennessee Higher Education Commission -- Adds two student members to Tennessee higher education commission. Amends TCA 49-7-204.

Rep. Williams (Shelby) moved that House Bill No. 1766 be passed on third and final consideration.

Rep. Davidson moved adoption of Education Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1766 by adding in amendatory subdivision (c)(1) of Section 3 the word "non-voting" before the words "student who shall be appointed".

AND FURTHER AMEND in amendatory subdivision (d)(1) of Section 3 by adding the word "non-voting" before the words "student who shall be appointed".

On motion, Amendment No. 1 was adopted.

Rep. Williams (Shelby) moved that House Bill No. 1766, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	90
Noes. . . . .	0
Present and not voting. . . . .	5

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain,

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Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R. (Shelby), Joyce, Kent, Kisber, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 90.

Representatives present and not voting were: Bragg, Brooks, Brown, Purcell, Williams (Williamson) -- 5.

A motion to reconsider was tabled.

**REQUEST TO CHANGE VOTE**

Pursuant to Rule No. 31, the following member(s) desire to change their original stand from not voting to yes on House Bill No. 1766 and have this statement entered in the Journal: Rep(s). Knight.

**REGULAR CALENDAR, CONTINUED**

**House Bill No. 1247 -- Criminal Offenses --** Elevates simple assault upon pregnant woman to aggravated assault if fetus is viable at time of assault. Amends TCA 39-13-102.

Rep. Williams (Shelby) moved that Senate Bill No. 1247 be reset to the Calendar for Wednesday, April 13, 1994, which motion prevailed.

**Senate Bill No. 2794 -- Motor Vehicles, Titling and Registration --** Authorizes issuance of special license plates for honorably discharged veterans of United States armed forces. Amends TCA, Title 55, Ch. 4.

Further consideration of Senate Bill No. 2794, previously considered on today's Calendar.

Rep. Hillis renewed the motion to adopt Amendment No. 3, which motion prevailed.

Rep. Hillis moved to adopt Amendment No. 4 as follows:

**Amendment No. 4**

Amend Senate Bill No. 2794 by deleting the reference "Section 55-4-302" in subsection (a) of the amendatory language in Section 4 of the printed bill and substituting the reference "Section 55-4-203".

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AND FURTHER AMEND in Section 4 of the printed bill by inserting in subsection (a) of the amendatory language after the words "the regular fee applicable to the vehicle" the following:

, a fee equal to the cost of providing the special plates as determined by the commissioner,

AND FURTHER AMEND by deleting Section 3 in its entirety and by renumbering subsequent sections accordingly.

On motion, Amendment No. 4 was adopted.

Rep. Hillis moved that Senate Bill No. 2794, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	94
Noes	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

House Bill No. 2568 -- AIDS -- Allows law enforcement officer who has been exposed to blood or bodily fluids of arrested suspect to require that blood of such suspect be tested for hepatitis B and HIV virus. Amends TCA, Title 68, Ch. 10, Pt. 1.

On motion, House Bill No. 2568 was made to conform with Senate Bill No. 2424; the Senate Bill was substituted for the House Bill.

Rep. Kent moved that Senate Bill No. 2424 be passed on third and final consideration.

Rep. Dixon moved adoption of Health and Human Resources Committee Amendment No. 1 as follows:

Amendment No. 1

Amend Senate Bill No. 2424 by deleting subsection (b) of Section 1 in its entirety and by substituting instead the following:

(b) Such testing shall occur at a licensed healthcare facility, with the cost to be paid by the state, county or municipal subdivision thereof which employs the law enforcement officer. Any person who, acting at the written request of a law enforcement officer, withdraws blood from a person for the purpose of making such test, shall not incur any civil or criminal liability as a result of the withdrawing of such blood, except for any damages that may result from the negligence of the person so withdrawing. Neither shall the hospital or licensed healthcare facility incur, except for negligence, any civil or criminal liability as a result of the act of withdrawing blood from any person. The results of such testing shall be confidential; provided, however, the law enforcement officer exposed to such blood or other body fluid shall have the right to request the results of such testing and the person providing such test results shall be immune from liability in the same manner as is provided in Tennessee Code Annotated, Section 68-10-115.

On motion, Amendment No. 1 was adopted.

Rep. Dixon moved adoption of Health and Human Resources Committee Amendment No. 2, seconded by Rep. Kent, as follows:

Amendment No. 2

Amend Senate Bill No. 2424 by deleting the words "to require" from the amendatory language of subsection (a) of Section 1, and by substituting instead the words "to request".

On motion, Amendment No. 2 was adopted.

Rep. Kent moved that Senate Bill No. 2424, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	93
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kisber, Knight, Lewis, Liles,

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Love, McAfee, McDaniel, McKee, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh --- 93.

A motion to reconsider was tabled.

House Bill No. 1313 -- Health, Dept. of -- Increases from \$10.00 to \$25.00 penalty for delinquent payment of public swimming pool permit fee. Amends TCA 68-14-302.

Rep. Chiles moved that House Bill No. 1313 be passed on third and final consideration.

Rep. Dixon moved adoption of Health and Human Resources Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1313 by deleting all language following the enacting clause, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 68-14-302(a)(4), is amended by changing the semi-colon at the end of the subdivision to a period and by adding the following:

"Food service establishment" does not include locations from which casual, occasional food sales are conducted solely in connection with youth related amateur athletic or recreational activities by volunteer personnel and which are in operation for twenty-four (24) consecutive hours or less;

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Chiles moved that House Bill No. 1313, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	96
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd,

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Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

\*House Bill No. 1887 -- Taxes -- Provides that subject matter jurisdiction and venue for tax disputes shall be in Tennessee, even if taxpayer's place of domicile or principal place of business is outside Tennessee. Amends TCA 67-1-1803.

Rep. Ritchie moved that House Bill No. 1887 be passed on third and final consideration.

Rep. Bragg moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

**Amendment No. 1**

Amend House Bill No. 1887 by deleting the words "shall lie in" in the amendatory language of Section 1 and by substituting instead the language "shall lie in the Chancery Court in".

On motion, Amendment No. 1 was adopted.

Rep. Ritchie moved that House Bill No. 1887, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps,

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Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

#### BILL RECALL NOTICE

Pursuant to Rule No. 53, Rep. Ritchie filed notice of intent to recall House Bill No. 2676 from the State and Local Government Committee to place it at the head of the floor calendar for Thursday, April 14, 1994.

Mr. Speaker Naifeh ruled this motion out of order.

#### REGULAR CALENDAR, CONTINUED

House Bill No. 2049 -- Historical Commission -- Revises criteria and maintenance of Tennessee register of historic places. Amends TCA, Title 4, Ch. 11, Pt. 2.

Rep. Shirley moved that House Bill No. 2049 be passed on third and final consideration.

Rep. Hillis moved adoption of Conservation and Environment Committee Amendment No. 1, seconded by Rep. Shirley, as follows:

#### Amendment No. 1

Amend House Bill No. 2049 by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 11, is amended by deleting Part 2 in its entirety and by substituting Sections 2 through 11 of this act as a new Part 2.

SECTION 2. The Tennessee historical commission is authorized and directed to maintain and expand a register of districts, sites, buildings, structures, and objects significant in Tennessee history, architecture, archeology, engineering, and culture. This register shall be known as the Tennessee register of historic places and shall be the official inventory of irreplaceable historic resources which need to be given maximum encouragement for historic preservation.

SECTION 3. The following criteria shall be used in determining the eligibility of a property for listing the Tennessee register of historic places.



(1) The quality of significance in Tennessee history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association; and:

(A) That are associated with events that have made a significant contribution to the broad patterns of our history;

(B) That are associated with the lives of persons significant in our past;

(C) That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(D) That have yielded, or may be likely to yield, information important in prehistory of history.

(2) Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved significance within the past fifty (50) years shall not be considered eligible for the Tennessee register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within following categories:

(A) A religious property deriving primary significance from architectural or artistic distinction or historical importance;

(B) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event;

(C) A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his or her productive life;

(D) A cemetery which derives its primary

significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

(E) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

(F) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or

(G) A property achieving significance within the past fifty (50) years if it is of exceptional importance.

(3) Revisions to these criteria may be made by the Tennessee historical commission in order to enhance the historical quality of the register.

SECTION 4. The Tennessee register of historic places shall consist of all properties in Tennessee which are listed on the National register of historic places maintained by the United States Department of Interior as of the effective date of this act. Properties which are in the future nominated to the National register of historic places shall be also listed in the Tennessee register of historic places as of the date of their acceptance by the keeper of the national register provided the owner or owners of such property have not objected to such listing as provided for in Section 5.

SECTION 5. Both publicly and privately owned property shall be included in the Tennessee register of historic places. However, prior to the inclusion of privately owned property on the Tennessee register of historic places the owner or owners of such property shall be given the opportunity (including a reasonable period of time) to concur in or object to such listing. If the owner, or in the case of multiple ownership as in a historic district, a majority of owners, object to such listing, the property proposed for listing in the Tennessee register of historic places shall not be listed until such objection is withdrawn.

SECTION 6. The Tennessee register of historic places shall be updated and published when funds are available and copies of the register shall be provided to the planning agencies of the state.

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SECTION 7. A property listed in the Tennessee register of historic places may be removed from such listing if it has lost the qualities of historical, architectural, or archeological significance which made it eligible.

SECTION 8. The executive director of the Tennessee historical commission shall be designated as the keeper of the Tennessee register of historic places.

SECTION 9. All agencies of state or local government or of any political subdivision thereof, prior to the commencement of any undertaking involving the expenditure of public funds or the transfer of public property into private ownership, shall take into account the effect of the undertaking on any property which is listed on the Tennessee register of historic places or is determined by the keeper of the Tennessee register to be eligible for such listing. The responsible agency shall plan and implement all such undertakings so as to avoid or minimize adverse effects to such properties to the extent prudent and feasible and shall afford the Tennessee historical commission a reasonable opportunity to comment on the effects of such undertakings and shall provide such information as may be necessary for the historical commission to make informed comments.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect July 1, 1994, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Shirley moved to adopt Amendment No. 2 as follows:

**Amendment No. 2**

Amend House Bill No. 2049 by deleting SECTION 9 in its entirety.

On motion, Amendment No. 2 was adopted.

Rep. Shirley moved that House Bill No. 2049, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

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Ayes . . . . .	91
Noes . . . . .	0
Present and not voting . . . . .	3

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood -- 91.

Representatives present and not voting were: Ferguson, Turner (Hamilton), Mr. Speaker Naifeh -- 3.

A motion to reconsider was tabled.

**House Bill No. 2457 -- Real Property -- Enacts "Tennessee Residential Property Disclosure Act". Amends TCA, Title 66, Ch. 5.**

Further consideration of House Bill No. 2457, previously considered on today's Calendar.

On motion, House Bill No. 2457 was made to conform with Senate Bill No. 2020; the Senate Bill was substituted for the House Bill.

Rep. Collier moved that Senate Bill No. 2020 be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Shirley moved to adopt Amendment No. 2 as follows:

**Amendment No. 2**

Amend Senate Bill No. 2020 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section \_\_\_\_\_. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

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Rep. Ramsey moved that Amendment No. 2 be tabled, which motion prevailed.

Rep. Collier moved that Senate Bill No. 2020 be passed on third and final consideration.

Rep. Jackson moved the previous question, which motion prevailed.

Senate Bill No. 2020 passed on third and final consideration by the following vote:

Ayes	95
Noes	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wood, Mr. Speaker Nafish -- 95.

Representatives voting no were: Shirley -- 1.

A motion to reconsider was tabled.

House Bill No. 2566 -- Alcoholic Offenses -- Treats prior conviction for vehicular homicide involving alcohol and vehicular assault same as prior DUI conviction for purpose of enhancing punishment for DUI conviction. Amends TCA 55-10-403.

On motion, House Bill No. 2566 was made to conform with Senate Bill No. 2420; the Senate Bill was substituted for the House Bill.

Rep. Haley moved that Senate Bill No. 2420 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	97
Noes	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman

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Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

House Bill No. 2412 -- Crime, Victims of -- Assesses \$50.00 civil penalty against person violating orders of protection or court approved consent agreements. Amends TCA, Title 36, Ch. 3, Pt. 6.

Rep. Odom moved that House Bill No. 2412 be reset to the Calendar for Thursday, April 14, 1994, which motion prevailed.

\*House Bill No. 1670 -- Parks, Natural Areas Preservation -- Redesignates Pickett State Park as Pickett Civilian Conservation Corps Memorial Park.

Rep. Winningham moved that House Bill No. 1670 be passed on third and final consideration.

Rep. Hillis moved adoption of Conservation and Environment Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1670 by inserting between the words "Memorial" and "Park" the word "State" wherever they appear.

On motion, Amendment No. 1 was adopted.

Rep. Winningham moved that House Bill No. 1670, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	95
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Mires, Moore,

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Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

**House Bill No. 1197 -- Criminal Offenses -- Authorizes T.B.I. to investigate destruction of property by explosives. Amends TCA, Titles 4, 8, 38, 57, 65, 68, 70.**

On motion, House Bill No. 1197 was made to conform with Senate Bill No. 145; the Senate Bill was substituted for the House Bill.

Rep. Kernell moved that Senate Bill No. 145 be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Kernell moved that Senate Bill No. 145 be passed on third and final consideration.

Rep. Rhinehart moved that Senate Bill No. 145 be re-referred to the Calendar and Rules Committee.

Rep. Kernell moved that the motion to re-refer be tabled, which motion failed by the following vote:

Ayes. . . . .	35
Noes. . . . .	47
Present and not voting. . . . .	7

Representatives voting aye were: Armstrong, Arriola, Boyer, Brooks, Brown, Buck, Chiles, Chumney, Collier, DeBerry, Fowlkes, Garrett, Hassell, Head, Jones R (Shelby), Knight, Liles, Love, Meyer, Miller, Napier, Odom, Purcell, Robinson, Severance, Shirley, Stamps, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), West, Williams (Shelby), Williams (Williamson), Wix -- 35.

Representatives voting no were: Anderson, Bell, Bittle, Byrd, Callicott, Cole (Dyer), Cross, Davidson, Davis, Dixon, Dyer, Ferguson, Fisher, Givens, Haley, Halteman Harwell, Hargrove, Haun, Herron, Hillis, Huskey, Kisber, Lewis, McAfee, McDaniel, Mires, Moore, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Ramsey, Rhinehart, Rigsby, Rinks, Ritchie, Stockburger, Stulce, Venable, Walley, Westmoreland, Whitson, Williams (Union), Windle, Winningham, Wood -- 47.

Representatives present and not voting were: Bragg, Cole (Carter), Johnson, Kent, Pruitt, Ridgeway, Mr. Speaker Naifeh -- 7.

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Rep. Kernell moved that **Senate Bill No. 145** be re-referred to the Calendar and Rules Committee, which motion prevailed.

**House Bill No. 2276 -- Criminal Offenses --** Creates Class A misdemeanor offense of intercepting communications between cordless or cellular telephones and Class E felony offense of disseminating intercepted communication to another. Amends TCA, Title 39; Title 47, Ch. 25; Title 65, Ch. 21.

Rep. Buck requested that House Bill No. 2276 be moved down 5 places on the Calendar.

**\*House Bill No. 2507 -- Contractors --** Revises when person can apply for contractor's license after doing contracting work without license; revises when citations must be issued for violations. Amends TCA, Title 62, Ch. 6.

Rep. Head requested that House Bill No. 2507 be moved to the heel of the Calendar.

**House Bill No. 2415 -- TennCare --** Permits persons who are uninsured due to plant closing to automatically be eligible for TennCare at expiration of 18 month period for continuing insurance coverage under COBRA.

Rep. Rinks requested that House Bill No. 2415 be moved to the heel of the Calendar.

**House Bill No. 2734 -- Public Records --** Authorizes transfer of public records in criminal investigation from district attorney general or criminal court clerk to museum, library, university or not for profit corporation if such records are of historical significance. Amends TCA, Title 10, Ch. 7, Pt. 5.

On motion, House Bill No. 2734 was made to conform with Senate Bill No. 1957; the Senate Bill was substituted for the House Bill.

Rep. Williams (Shelby) moved that **Senate Bill No. 1957** be passed on third and final consideration.

#### **CHAIR TO DEBERRY**

Mr. Speaker Naifeh relinquished the Chair to Rep. DeBerry, Speaker pro tempore.

#### **REGULAR CALENDAR, CONTINUED**

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.



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Senate Bill No. 1957 passed on third and final consideration by the following vote:

Ayes. . . . . 95  
Noes. . . . . 0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

House Bill No. 2725 -- Treasurer, State -- Directs state treasurer to publish certain newspaper notices to inform public of community reinvestment ratings of financial institutions designated as state depositories. Amends TCA 9-4-107.

Rep. Thompson moved that House Bill No. 2725 be passed on third and final consideration.

Rep. Bragg moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

**Amendment No. 1**

Amend House Bill No. 2725 by deleting the amendatory and directory language of Sections 1 and 2 in their entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 9-4-107, is amended by adding the following language as a new, appropriately designated subsection:

( ) (1) Within one hundred twenty (120) days following June 30 of each year, the state treasurer shall publish a notice within a newspaper of general circulation within each of the state's three (3) grand divisions. Each such notice shall:

A. List each financial institution, located within the grand division, which on June 30 of that year is designated as a state depository and which possesses a community reinvestment rating

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of "needs to improve a record of meeting community credit needs" or "substantial noncompliance in meeting community credit needs", assigned pursuant to 12 United States Code, Section 2901 et seq.;

B. Indicate the approximate amount of state funds on deposit with each such financial institution on June 30 of that year;

C. Briefly explain the purpose of community reinvestment evaluations and the four (4) tier ratings system; and

D. List the names, addresses and telephone numbers of appropriate federal financial supervisory agencies with whom complaints may be filed concerning a financial institution's record of meeting the credit needs of its entire community, including low and moderate-income neighborhoods.

(2) It shall be the duty of each state depository possessing one of the community reinvestment ratings set forth in subdivision (1)(A) of this subsection to certify the same to the state treasurer. Said certification shall be made within ninety (90) days of the state depository's receipt of such rating. The state treasurer shall be entitled to rely upon the community reinvestment ratings supplied by the state depositories in complying with this subsection.

SECTION 2. This act shall take effect on July 1, 1994 and shall apply only to community reinvestment ratings issued for periods on and after July 1, 1994.

On motion, Amendment No. 1 was adopted.

Rep. Bragg moved adoption of Finance, Ways and Means Committee Amendment No. 2 as follows:

**Amendment No. 2**

Amend House Bill No. 2725 by deleting from the amendatory language of Section 1 the words "and which possesses a community reinvestment rating of 'needs to improve record of meeting community credit needs' or 'substantial noncompliance in meeting community credit needs', assigned pursuant to 12 United States Code, Section 2901 et seq.";".

AND FURTHER AMEND by adding to the amendatory language of Section 1 the following as a new item (1)(D) and by redesignating existing item (1)(D) accordingly:

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Contain the following statement in a clear and conspicuous manner: "The evaluation for Community Reinvestment Act purposes in this list is not related to financial condition and does not reflect the safety or soundness of the listed institutions".

On motion, Amendment No. 2 was adopted.

House Bill No. 2725, as amended, passed on third and final consideration by the following vote:

Ayes. . . . .	94
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windley, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

\*House Bill No. 1644 -- Education -- Authorizes use of not more than five days of accumulated time from longer school days to meet 180 instructional day requirement. Amends TCA 49-6-3004.

Rep. Moore moved that House Bill No. 1644 be reset to the Calendar for Wednesday, April 13, 1994, which motion prevailed.

House Bill No. 2276 -- Criminal Offenses -- Creates Class A misdemeanor offense of intercepting communications between cordless or cellular telephones and Class E felony offense of disseminating intercepted communication to another. Amends TCA, Title 39; Title 47, Ch. 25; Title 65, Ch. 21.

Further consideration of House Bill No. 2276, previously considered on today's Calendar.

Rep. Buck moved that House Bill No. 2276 be reset to the Calendar for Wednesday, April 13, 1994, which motion prevailed.

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\*House Bill No. 2418 -- Fire Prevention and Investigation -- Increases certain fire prevention inspection fees. Amends TCA 68-102-143.

Rep. Pinion moved that House Bill No. 2418 be passed on third and final consideration.

Rep. Rhinehart requested that Commerce Committee Amendment No. 1 be moved to the heel of the Amendments.

Rep. Pinion moved to adopt Amendment No. 2 as follows:

**Amendment No. 2**

Amend House Bill No. 2418 by deleting the amendatory language of Section 1 in its entirety and substituting instead the following:

(2) The inspection fee for each inspection for services shall not exceed the following:

	<u>Fee</u>
0-30 ampere capacity	\$17.50
31-60 ampere capacity	\$18.80
61-200 ampere capacity	\$19.00
201-400 ampere capacity	\$28.50
401-600 ampere capacity	\$38.00
601-1,000 ampere capacity	\$72.00
1,001 ampere capacity and above	fee negotiable; however, any such fee shall be subject to approval by the department.
Rough-in inspection	\$18.40
Inspection of a dwelling unit's heating and/or cooling system	\$19.00
Reinspection based on rejection of a 0-1,000 ampere capacity	\$19.00

AND FURTHER AMEND by deleting from Section 2 the language "July 1, 1994" and substituting instead "January 1, 1995".

Rep. Head moved the previous question, which motion prevailed.

On motion, Amendment No. 2 was adopted.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 1.

House Bill No. 2418, as amended, passed on third and final consideration by the following vote:

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Ayes. . . . .	68
Noes. . . . .	16
Present and not voting. . . . .	3

Representatives voting aye were: Anderson, Armstrong, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Davidson, Davis, DeBerry, Dixon, Ferguson, Fisher, Fowlkes, Garrett, Gunnels, Haley, Halteman Harwell, Hassell, Haun, Head, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Lewis, Liles, Love, McDaniel, McKee, Mires, Moore, Napier, Odom, Peroulas Draper, Phelan, Phillips, Pinion, Purcell, Ramsey, Rhinehart, Rigsby, Rinks, Robinson, Shirley, Stamps, Stulce, Turner (Hamilton), Turner (Shelby), Venable, West, Whitson, Williams (Shelby), Wix, Mr. Speaker Naifeh -- 68.

Representatives voting no were: Allen, Arriola, Callicott, Cross, Duer, Givens, Herron, Kisber, McAfee, Owenby, Walley, Westmoreland, Williams (Union), Windle, Winningham, Wood -- 16.

Representatives present and not voting were: Knight, Ritchie, Stockburger -- 3.

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to Rule No. 31, the following member(s) desire to change their original stand from yes to no on House Bill No. 2418 and have this statement entered in the Journal: Rep(s). Bell.

REGULAR CALENDAR, CONTINUED

House Bill No. 2386 -- Garnishments and Executions -- Requires garnishment of compensation due from employer to and upon full payment of judgment and costs, rather than ending after three months. Amends TCA 26-2-214.

On motion, House Bill No. 2386 was made to conform with Senate Bill No. 2006; the Senate Bill was substituted for the House Bill.

Rep. Fisher moved that Senate Bill No. 2006 be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Fisher moved that Senate Bill No. 2006 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	95
Noes. . . . .	0
Present and not voting. . . . .	1

Representatives voting aye were: Allen, Anderson, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

Representatives present and not voting were: Armstrong -- 1.

A motion to reconsider was tabled.

**\*House Joint Resolution No. 0173 -- Highway Signs -- Nashville School of Law.**

Rep. Arriola moved that House Joint Resolution No. 173 be adopted.

Rep. Robinson moved adoption of Transportation Committee Amendment No. 1 as follows:

**Amendment No. 1**

Amend House Joint Resolution No. 173 by adding the following resolving clause immediately before the final resolving clause:

BE IT FURTHER RESOLVED, that this resolution shall become operative only if the federal highway administrator advises the commissioner of transportation in writing that the provisions of this resolution do not render Tennessee in violation of federal laws and regulations and subject to penalties prescribed therein.

On motion, Amendment No. 1 was adopted.

Rep. Robinson moved adoption of Transportation Committee Amendment No. 2 as follows:

**Amendment No. 2**

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Amend House Joint Resolution No. 173 by deleting the name "Rice" in the eighth clause of the preamble of the printed resolution.

On motion, Amendment No. 2 was adopted.

Rep. Arriola moved that House Joint Resolution No. 173, as amended, be adopted, which motion prevailed by the following vote:

Ayes. . . . .	92
Noes. . . . .	1

Representatives voting aye were: Allen, Anderson, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

Representatives voting no were: Armstrong -- 1.

A motion to reconsider was tabled.

House Bill No. 1760 -- District Attorneys -- Entitles district attorney of 15th judicial district to additional secretarial position. Amends TCA 16-2-506.

Rep. Buck moved that Senate Bill No. 1760 be reset to the last Calendar for 1994, which motion prevailed.

\*House Bill No. 2134 -- Eminent Domain -- Gives right of first refusal to former landowner when state, county or municipality no longer needs all or part of condemned land; establishes method for sale if landowner rejects offer or fails to exercise option. Amends TCA, Title 29, Ch. 17, Pt. 12.

Further consideration of House Bill No. 2134, previously considered on March 21 and 28, April 4 and 7, 1994, at which time Amendments Nos. 1, 2, and 3 were withdrawn; the motion was made to adopt Amendment No. 4, and it was reset to the Calendar for April 11, 1994.

Rep. Stulce moved that House Bill No. 2134 be passed on third and final consideration.

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Rep. Stulce renewed the motion to adopt Amendment No. 4, previously filed.

Rep. Chumney moved to adopt Amendment No. 1 to Amendment No. 4 as follows:

**Amendment No. 1 to Amendment No. 4**

Amend House Bill No. 2134 by deleting from the first sentence of Section 1 the language "Section 12-2-112(a)(9)" and by substituting instead the language "Section 12-2-112(a)(8) or (9)".

On motion, Amendment No. 1 to Amendment No. 4 was adopted.

Rep. Chumney moved that Amendment No. 2 to Amendment No. 4 be withdrawn, which motion prevailed.

On motion, Amendment No. 4, as amended, was adopted.

Rep. Collier moved to adopt Amendment No. 5 as follows:

**Amendment No. 5**

Amend House Bill No. 2134 by adding the following new subpart to the amendatory language of Section \_\_\_ of Section 1:

( ) The provisions of this act shall not apply to property located within any county having a population of more than seven hundred thousand (700,000) according to the 1990 federal census or any subsequent federal census.

Rep. Williams (Shelby) moved that House Bill No. 2134 be reset heel of the Message Calendar to the Calendar, then withdrew the motion.

Rep. Stulce moved that Amendment No. 5 be tabled, which motion prevailed.

Rep. Stulce moved that House Bill No. 2134, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	82
Noes. . . . .	8
Present and not voting. . . . .	3

Representatives voting aye were: Allen, Anderson, Armstrong, Bell, Bittle, Boyer, Buck, Byrd, Callicott, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Garrett, Gunnels, Haley, Hargrove, Hassell, Haun, Herron, Hillis, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee,



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McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 82.

Representatives voting no were: Bragg, Chiles, Fowlkes, Givens, Halteman Harwell, Head, Jackson, West -- 8.

Representatives present and not voting were: Brooks, Brown, Thompson -- 3.

A motion to reconsider was tabled.

**\*House Bill No. 2507 -- Contractors --** Revises when person can apply for contractor's license after doing contracting work without license; revises when citations must be issued for violations. Amends TCA, Title 62, Ch. 6.

#### CHAIR TO SPEAKER

Mr. Speaker Naifeh resumed the Chair.

#### REGULAR CALENDAR, CONTINUED

Rep. Head moved that House Bill No. 2507 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1, seconded by Rep. Head, as follows:

#### Amendment No. 1

Amend House Bill No. 2507 by deleting all language following the enacting clause and substituting instead the following new language:

SECTION 1. Tennessee Code Annotated, Sections 62-6-102, 62-6-103, and 62-6-104, are amended by deleting the sections in their entirety and substituting instead the following new sections:

62-6-102. Definitions. For the purposes of this chapter:

(1) (A) "Contractor" means any person or entity who undertakes to, attempts to, or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct, or in any manner assume charge of the construction,

alteration, repair, improvement, movement, demolition, putting up, tearing down, or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement, or any other construction undertaking for which the total cost of the same is twenty-five thousand dollars (\$25,000) or more. The term "contractor" includes but is not limited to prime contractors, electrical contractors, mechanical contractors, construction managers of any kind whatsoever, including but not limited to residential construction managers, construction consultants, architects, and/or engineers who conduct or provide any activity or service described herein other than normal architectural or engineering services.

(B) For purposes of this act, normal architectural and engineering services are defined as follows:

(i) the preparation of bids, proposals, plans, specifications or other contract documents, or in the evaluation of contractors, subcontractors, or suppliers;

(ii) the approval of shop drawings, submittals, substitutions, pay requests, or other certifications required by contract documents;

(iii) conducting representative reviews for progress and quality of construction on behalf of the owner;

(iv) interpretations and clarifications of contract documents;

(v) preparation and approval of changes in construction; and

(vi) preparation of as-built drawings and operation and maintenance manuals.

(C) The definition of "contractor" does not include an engineer licensed in accordance with Tennessee Code Annotated, Section 62-2-101, et seq., who is:

(i) managing and supervising the removal, remediation, or clean up of pollutants or wastes from the environment;

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(ii) serving as a "corrective action contractor" as defined by the rules and regulations of the department of conservation and environment of the state of Tennessee;

(iii) conducting subsurface investigation and/or testing by drilling or boring to determine subsurface conditions;

(iv) conducting geophysical or chemical testing of soil, rock, ground water or residues; or

(v) installing of monitoring detection wells, or piezometers for evaluating soil or ground water characteristics.

(D) The definition of "contractor" herein does not include:

(i) Undertaking in one's county of residence solely to construct residences or dwellings on private property for the purpose of resale, if such county has a population of:

<u>not less than</u>	<u>nor more than</u>
4,800	5,100
6,600	6,650
6,700	6,950
7,100	7,175
7,200	7,500
8,600	8,900
9,000	9,250
9,275	9,400
9,650	10,000
10,100	10,470
10,471	10,800
12,700	13,000
13,800	13,750
14,000	14,000
14,100	14,250
14,300	14,450
14,650	15,000
15,900	16,200
16,300	16,650
17,000	17,200
17,250	17,550
17,600	18,000
18,200	18,500
19,300	19,600
20,000	20,300
21,400	21,700

21,575	21,675
21,800	22,100
22,200	22,500
22,600	23,000
23,300	23,400
23,450	24,000
24,600	24,900
25,000	25,600
25,700	26,000
26,100	26,400
27,100	27,400
28,100	28,400
29,100	29,400
30,200	30,475
30,500	30,800
31,100	31,400
31,500	31,800
31,900	32,200
32,900	33,000
33,010	33,500
34,500	34,730
35,075	35,200
35,300	35,500
37,000	37,100
37,500	37,800
41,300	41,600
44,500	45,000
47,000	47,500
51,500	51,800
55,700	56,000

according to the 1990 federal census or any subsequent federal census, or is a county of the eighth class as provided in §8-24-101; or

(ii) Any undertaking, as described above, for the department of transportation; and

(2) "Contracting" means any person or entity who performs or causes to be performed any of the activities defined in § 62-6-102(1)(A).

(3) "Residential contractor" means those whose services are limited to construction, remodelling, repair, or improvement of one, two, three, or four family unit residences not exceeding three stories in height and accessory use structures in connection therewith.

(4) "Prime contractor" is one who contracts directly with the owner.

(5) "Commercial Building Contractors" are

those contractors authorized to bid on and contract for every phase of the construction, direction, alteration, repair or demolition of any building or structure for use and occupancy by the general public.

62-6-103. License requirement - Recovery of expenses by unlicensed contractor.

(a) (1) Any person, firm or corporation engaged in contracting in this state shall be required to submit evidence that he is qualified to engage in contracting, and shall be licensed as hereinafter provided. It is unlawful for any person, firm or corporation to engage in or offer to engage in contracting in the state, unless such person, firm or corporation has been duly licensed under the provisions of this chapter, as hereinafter provided. Any person, firm or corporation engaged in contracting, including such person, firm or corporation that engages in the construction of residences or dwellings constructed on private property for the purpose of resale, lease, rent or any other similar purpose, shall be required to submit evidence that he is qualified to engage in contracting, and shall be licensed. It is unlawful for any person, firm, or corporation to engage in, or offer to engage in, contracting as hereinabove described, unless such person, firm or corporation has been duly licensed under the provisions of this chapter.

(2) (A) Notwithstanding the provisions of subdivision (a)(1), any person, firm or church that owns property and constructs thereon single residences, farm buildings or other buildings for individual use, and not for resale, lease, rent or other similar purpose, is exempt from the requirements of this chapter.

(B) Except in counties with a population of not less than seven hundred seventy-seven thousand one hundred thirteen (777,113) or not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725), both according to the 1980 federal census or any subsequent federal census, a person or firm specified in subdivision (a)(2)(A) shall not make more than one (1) application for a permit to construct a single residence or shall not construct more than one (1) single residence within a period of two (2) years. There shall be a rebuttable presumption

that such person or firm intends to construct for the purpose of resale, lease, rent or any other similar purpose if more than one (1) application is made for a permit to construct a single residence or if more than one (1) single residence is constructed within a period of two (2) years. No provision of this subdivision shall be construed to alter the definition of "contractor" as defined in § 62-6-102.

(3) Notwithstanding subdivisions (a)(1) and (2), the license requirements and restrictions contained in this subsection shall not apply to single residences constructed by:

(A) Nonprofit charitable or religious corporations, associations and organizations which are exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)), as amended; or

(B) Students enrolled in educational institutions who construct such residences under the direct supervision of faculty as part of the curriculum of the institution.

(b) Any unlicensed contractor covered by the provisions of this chapter shall be permitted in a court of equity to recover actual documented expenses only upon a showing of clear and convincing proof.

62-6-104. Board.

(a) There is created a state board for licensing contractors, hereinafter called the "board" to be appointed by the governor. The board shall be composed of nine (9) members, all of whom shall be residents of this state and at least three (3) of whom shall be actively engaged as a residential contractor, and whom shall compose the residential review board to consider and handle all informal conferences pertaining to residential construction, at least two (2) of whom shall be actively engaged as a commercial building contractor, at least one (1) of whom shall be actively engaged as a mechanical contractor, at least one (1) of whom shall be actively engaged as an electrical contractor, at least one (1) of whom shall be actively engaged as a highway, railroad or airport contractor, at least one (1) of whom shall be a person who is not engaged as a contractor in any county of this state. All board members who are required to be

in the business of contracting shall have been actively engaged in the business for a period of not less than ten (10) years immediately preceding their appointment and shall be licensed in the classification in which such member is serving upon the board. There shall be no more than one (1) board member in any specific classification provided hereinabove residing within any one grand division of this state and nor more than three (3) board members residing in any one grand division of this state. In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority.

(b) Any member of the board who fails to attend at least two-thirds (2/3) of the regularly scheduled meetings of the board shall automatically be removed from the board and a successor member shall be appointed by the governor in the way and manner provided by this chapter.

(c) All subsequent appointments of successor members shall be made by the governor at the expiration of the respective terms of the members in the way and manner provided by this chapter.

SECTION 2. Tennessee Code Annotated, Section 62-6-107, is amended by deleting the section in its entirety and substituting instead the following new section:

62-6-107. Executive director.

The board shall appoint an executive director to provide all administrative functions for the board. The compensation of such executive director shall be fixed by the board and such director shall serve at the pleasure of the board.

SECTION 3. Tennessee Code Annotated, Section 62-6-109, is amended by deleting subsection (d) in its entirety and substituting instead the following new subsection:

(d) Five (5) members shall constitute a quorum at a board meeting.

SECTION 4. Tennessee Code Annotated, Section 62-6-110, is amended by deleting the first sentence of subsection (c) as follows:

"A roster showing the name and place of business and residence of each licensed contractor shall be prepared by the executive director of the board."

and substituting instead the following new sentence:

A roster showing the name, business address, business telephone number and qualifying agent of each licensed contractor shall be prepared by the executive director of the board.

SECTION 5. Tennessee Code Annotated, Section 62-6-111, is amended by deleting subdivision (a)(1) in its entirety and substituting instead the following new subdivision:

(a) (1) Anyone desiring to be licensed as a contractor for this state shall make written application to the board on such forms as are prescribed by the board and shall furnish the board with an affidavit stating that the applicant is not currently performing any construction work nor has not offered to engage in any construction work where the amount of the applicant's contract exceeds twenty-five thousand dollars (\$25,000). The application shall be accompanied by an application fee as set by the board.

Tennessee Code Annotated, Section 62-6-111, is further amended in subdivision (a)(2) by deleting the fourth sentence which reads as follows:

"The permissible fee for such examination shall be increased by five dollars (\$5.00) on July 1, 1989, and again on July 1, 1990."

Tennessee Code Annotated, Section 62-6-111, is further amended in subdivision (a)(4) by deleting the subdivision in its entirety and substituting instead the following new subdivision:

(4) Whenever any applicant is advised to appear before the board for an interview and fails to appear at the scheduled time and place without notifying the board at least three (3) days in advance, such applicant shall pay an additional fee as set by the board before being rescheduled for interview. In the event of failure to appear for interview on three (3) separate occasions, a new application and fee are required.

SECTION 6. Tennessee Code Annotated, Section 62-6-111, is amended by deleting subdivision (b)(2) in its entirety and substituting instead the following new subdivision:



(2) The criteria so established by the board shall include, but not be limited to, a letter of reference from a past client, employer of the applicant or codes administration official as well as a financial statement of the applicant.

SECTION 7. Tennessee Code Annotated, Section 62-6-111, is amended by deleting subsections (c) and (d) in their entirety and substituting instead the following new subsections:

(c) The issuance by the board of a certificate of license authorizing the licensee to engage in any major construction classification(s) of contracting shall not authorize the licensee to engage in twenty-five thousand dollars (\$25,000) or more of any other major construction classification or specialty classification thereunder unless the licensee is additionally licensed in such other major construction classification or specialty classification thereunder.

(d) A contractor may bid on a contract requiring work in a classification(s) other than the one in which the contractor is licensed if and only if the contractor has a commercial building contractor's license or if his license will permit the contractor to perform at least sixty percent (60%) of the bid amount or price of the work for the project being bid or priced. However, such contractor may not actually perform any work in excess of twenty-five thousand dollars (\$25,000) in any classification unless the contractor has a license to perform work in such classification.

SECTION 8. Tennessee Code Annotated, Section 62-6-111, is amended by deleting subsections (e), (f), (g) and (h) in their entirety and substituting instead the following new subsections:

(e) (1) Whenever a partnership licensed as a contractor dissolves, no former member of the partnership shall further undertake contracting before filing a new application with the board and receiving a license.

(2) In case of a merger, purchase by non-stockholders of the majority interest, or reorganization pursuant to a bankruptcy proceeding, of any corporation engaged in contracting, the corporation shall make written application to the board and obtain a new license before undertaking contracting.

(f) (1) Upon application of any individual who was formerly a partner in a dissolved partnership, the

board shall transfer to such individual the license formerly held by the partnership upon a showing that:

(A) The individual was a partner in a dissolved partnership;

(B) The current financial statement of such individual meets the requirements promulgated by the board. If such financial statement fails to meet such requirements, the board may in its sole discretion modify the monetary limitation prior to transfer; and

(C) All liabilities of the partnership were satisfied prior to dissolution or will be satisfied by the individual.

(2) The board for transferring such license shall collect a fee as set by the board.

(g) (1) The board shall transfer, upon application and payment of a fee as set by the board, by any proprietorship or partnership which subsequently incorporates as a Tennessee corporation, the license formerly held by such proprietorship or partnership to such corporation upon a showing that:

(A) The officers or directors or management of the corporation were the owners or managers of the proprietorship or partnership;

(B) A copy of the corporation's charter has been filed with the board;

(C) The partnership or proprietorship is currently in good standing with the board;

(D) The current financial statement of such corporation meets the requirements promulgated by the board. If such financial statement fails to meet such requirements, the board may in its sole discretion modify the monetary limitation prior to transfer; and

(E) All liabilities of the proprietorship or partnership were satisfied prior to incorporation or will be satisfied by the corporation.

(2) The board shall develop an application for such transfer of license.

(h) Notwithstanding the provisions of § 56-1-302(7) to the contrary, all revenues generated from fees, penalties, or interest shall be allocated solely to the board for licensing contractors to be

utilized for the administration and enforcement of this chapter.

(i) (1) Notwithstanding any provision of the law to the contrary, the board may issue a license to any person who establishes such person's competency in any classification by successfully passing a proficiency test or examination for measuring of industry expertise in such work that is administered by the board, and such license shall authorize the licensee to engage in contracting in this state or any of its political subdivisions.

(2) Such licensee shall be eligible to contract for such work in any county or municipality upon:

(A) Exhibiting evidence of a current certificate of license to the appropriate local officials;

(B) Paying any local licensing fees in effect on May 8, 1992; and

(C) Paying any inspection or permit fees customarily required by any county or municipality for such work. No county or municipality shall require such state licensee or its employees to pass any county or municipal test or examination; nor shall a county or municipality impose any additional requirements upon such state licensee or its employees, nor in any way discriminate against such state licensee or its employees on the basis of the licensee's nonresidency within the county or municipality.

SECTION 9. Tennessee Code Annotated, Title 62, Chapter 6, Part 1, is amended by adding the following new section to be designated as Section 62-6-112:

(a) There shall be nine (9) major construction classifications in which a contractor may apply for a license, such major classifications being (1) commercial building construction, (2) industrial construction, (3) heavy construction, (4) highway, railroad and airport construction, (5) municipal and utility construction, (6) mechanical construction, (7) electrical construction, (8) environmental and special construction, and (9) residential construction.

(b) The board shall promulgate by rules or regulations specialty classifications required under each major classification set out in subsection (a) of this section. Issuance of a license by the board to a contractor in any major classification automatically includes issuance of a license to such contractor in

all specialty classifications included thereunder.

(c) A contractor may obtain a license in any of the specialty classifications that the board by rule or regulation may promulgate under each major classification but such license in a specialty classification allows the contractor to bid, contract for or perform contracting work in that specialty classification only.

(d) A contractor may not be licensed in six (6) or more specialty classifications under any one (1) major classification without successfully passing the written and/or oral examination for such major classification.

(e) Notwithstanding any provision of this chapter to the contrary, the board may promulgate rules or regulations establishing subclassifications within the residential construction classification for which a limited license may be issued to an applicant who has successfully completed a seminar sponsored by the board in lieu of the written and/or oral examination and who has otherwise complied with the requirements of this chapter.

SECTION 10. Tennessee Code Annotated, Section 62-6-115, is amended by deleting the section in its entirety and substituting instead the following new section:

62-6-115. Corporations and partnerships.

Corporations and partnerships may engage in the business of contracting; provided, that at least one (1) of the major stockholders or partners or full-time employee with a written power of attorney to bind the corporation or partnership has sufficient knowledge of the construction business in which such persons are licensed to perform. If the person who took the examination for the partnership or corporation leaves the firm for any reason, the partnership or corporation must designate an individual to take the examination within three (3) months.

SECTION 11. Tennessee Code Annotated, Section 62-6-116, is amended by deleting subsection (d).

SECTION 12. Tennessee Code Annotated, Section 62-6-118, is amended by deleting subsection (e) in its entirety and substituting instead the following new subsection:

(e) Notwithstanding the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil

penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) per offense against any person or firm who violates the terms and conditions of an existing license to engage in contracting or against any person or firm who engages in unlicensed contracting.

SECTION 13. Tennessee Code Annotated, Section 62-6-119, is amended by deleting the section in its entirety and substituting instead the following new section:

62-6-119. Notice of requirements given in invitation to bidders.

(a) All architects, engineers, construction managers, construction consultants or any other person or entity preparing plans, specifications or any other documentation for inclusion or consideration in an invitation to bid or comparable bid document shall include a copy of this chapter at least by reference and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of a license in the appropriate classification before such bid may be considered.

(b) The architect, engineer, construction manager, construction consultant or any other person or entity involved in the preparation of the invitation to bid or comparable bid documents shall direct that the license number, expiration date thereof, and license classification of the contractor applying to the bid for electrical, plumbing or heating, ventilation or air conditioning, appear on the outside of the envelope containing the bid; otherwise, the bid shall not be opened or considered.

(c) Architects, engineers and awarding authorities, public and private, failing to observe this section shall be penalized in the same manner as any person under § 62-6-120 who accepts a bid from a person who is not licensed in accordance with the provisions of this chapter.

(d) A violation of this section is a Class A misdemeanor.

SECTION 14. Tennessee Code Annotated, Section 62-6-120, is amended in subdivision (a)(2) by deleting the subdivision in its entirety and substituting instead the following new subdivision (a)(2):

(a)(2) Any person, firm or corporation who

engages or offers to engage in contracting without a license as required by § 62-6-103 is ineligible to receive such license until six (6) months after a determination by the board that a violation has occurred. Additionally, no such person, firm or corporation shall be awarded any contract for the project upon which it engaged in contracting without a license or permitted to participate in any rebidding of such project.

Tennessee Code Annotated, Section 62-6-120, is further amended in subdivision (c)(1) by deleting the words ", or any political subdivision of the state,".

SECTION 15. Tennessee Code Annotated, Section 62-6-201, is amended in subsection (a) by deleting subdivision (3) in its entirety and substituting instead the following new subdivision:

(3) Each citation shall contain an order to cease all violations of this chapter and an assessment of a civil penalty in an amount not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000).

SECTION 16. Tennessee Code Annotated, Title 62, Chapter 6, is amended by adding the following new section:

Section \_\_\_\_\_. Notwithstanding any provision of Tennessee Code Annotated, Title 66, Chapter 11, or any other provision of the law to the contrary, the provisions of Tennessee Code Annotated, Title 66, Chapter 11 shall not be available on single family residential construction to any person, firm or corporation who performs residential construction and who is required to be licensed as a contractor pursuant to the provisions of Tennessee Code Annotated, Title 62, Chapter 6, and fails to have a valid license when acting as a contractor.

SECTION 17. This act shall take effect on becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Head moved that House Bill No. 2507, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

	92
Ayes. . . . .	1
Noes. . . . .	1
Present and not voting. . . . .	

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd,

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Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Owenby, Peroulas Draper, Phelan, Pinion, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Wix, Wood, Mr. Speaker Naifeh -- 92.

Representatives voting no were: Winningham -- 1.

Representatives present and not voting were: Dixon -- 1.

A motion to reconsider was tabled.

**MESSAGE FROM THE SENATE**

**April 11, 1994**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2539; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

\*Senate Bill No. 2539 -- TennCare -- Permits persons who are uninsured due to plant closing to automatically be eligible for TennCare at expiration of 18 month period for continuing insurance coverage under COBRA. by \*Cooper, \*Springer.

**REGULAR CALENDAR, CONTINUED**

House Bill No. 2415 -- TennCare -- Permits persons who are uninsured due to plant closing to automatically be eligible for TennCare at expiration of 18 month period for continuing insurance coverage under COBRA.

On motion, House Bill No. 2415 was made to conform with Senate Bill No. 2539; the Senate Bill was substituted for the House Bill.

Rep. Rinks moved that Senate Bill No. 2539 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

**Amendment No. 1**

Amend Senate Bill No. 2539 in the amendatory language of SECTION 2, SECTION 6, and SECTION 7 by adding the following sentence at the end of the amendatory language in each Section:

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"Existing municipality" and "existing municipality of one hundred thousand (100,000) or more in population" do not include any county with a metropolitan form of government with a population of one hundred thousand (100,000) or more according to the latest census certified by the state planning office.

On motion, Amendment No. 1 was adopted.

Rep. Gunnels moved that Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Rinks moved that Senate Bill No. 2539, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes. . . . .	97
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

MESSAGE CALENDAR

MOTION TO RECONSIDER

Rep. Robinson moved to lift from the table the motion to reconsider Senate Bill No. 2725, which motion prevailed.

Rep. Robinson moved to reconsider action in passing Senate Bill No. 2725, which motion prevailed.

On motion, the House reconsidered its action in adopting Amendment No. 1. On motion, the motion was made to withdraw Amendment No. 1

Rep. Robinson requested that Senate Bill No. 2725, be moved to the heel of the Message Calendar.



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HOUSE ACTION ON SENATE AMENDMENTS

House Bill No. 2395 -- Tobacco, Tobacco Products -- Enacts "Prevention of Youth Access to Tobacco Act of 1994". Amends TCA, Title 39.

Senate Amendment No. 5

Amend House Bill No. 2395 by adding to Section 4(b) the following new language:

Sections 4 and 5 shall not be deemed to preclude enforcement efforts involving the use of individuals under the age of eighteen (18) if a parent of the individual has consented to this action.

Senate Amendment No. 15

Amend House Bill No. 2395 by adding the following language at the end of Section 9:

Provided, further that airport authorities created pursuant to the provisions of Tennessee Code Annotated, Title 42; utility districts created pursuant to the provisions of Tennessee Code Annotated, Title 7; and special school districts may regulate the use of tobacco products in buildings owned or leased by such entities.

Rep. Head moved that the House concur in Senate Amendment(s) No(s). 5 and 15 to House Bill No. 2395, which motion prevailed by the following vote:

Rep. Haun moved the previous question, which motion prevailed.

The House concurred in Senate Amendment(s) No(s). 5 and 15 to House Bill No. 2395 by the following vote:

Ayes. . . . .	75
Noes. . . . .	17
Present and not voting. . . . .	1

Representatives voting aye were: Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Buck, Byrd, Callicott, Cole (Carter), Cole (Dyer), Collier, Cross, Davidson, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Hargrove, Haun, Head, Hillis, Jackson, Johnson, Joyce, Kent, Kernell, Kisber, Knight, Lewis, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Owenby, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Severance, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Mr. Speaker Naifeh -- 75.

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Representatives voting no were: Allen, Brooks, Chiles, Chumney, Coffey, Halteman Harwell, Hassell, Herron, Jones R (Shelby), Liles, Peroulas Draper, Ritchie, Robinson, Shirley, Stamps, Williams (Shelby), Wood -- 17.

Representatives present and not voting were: Crain -- 1.

A motion to reconsider was tabled.

**REQUEST TO CHANGE VOTE**

Pursuant to Rule No. 31, the following member(s) desire to change their original stand from not voting to aye on the motion to concur in Senate Amendments Nos. 5 and 15 to House Bill No. 2395 and have this statement entered in the Journal: Rep(s). Crain.

**MESSAGE CALENDAR, CONTINUED**

**HOUSE ACTION ON SENATE AMENDMENTS**

**\*House Bill No. 2657 -- Audiologists and Speech Pathologists --** Modifies licensure of speech pathologists and audiologists; clarifies that requirements for hearing aid dispensers do not apply to licensed audiologist in treating and fitting hearing aids. Amends TCA 63-15-106; Title 63, Ch. 17, Pt. 1.

**Senate Amendment No. 1**

Amend House Bill No. 2657 by deleting from the amendatory language of Section 2, subdivision (6) the word "diagnosis" and by substituting the word "assessment".

AND FURTHER AMEND by deleting from the amendatory language of Section 2, subdivision (6) the words "of diagnosing" and by substituting the word "assessing".

AND FURTHER AMEND by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

Section \_\_\_\_\_. Tennessee Code Annotated, Title 63, Chapter 17, Part 1, is amended by adding the following language as new, appropriately designated sections:

Section \_\_\_\_.

(a) Within thirty (30) days of the date of delivery, any purchaser of a hearing aid from an audiologist licensed by the board to practice the assessing, selecting, fitting or dispensing or engaging in the sale of hearing aids to the human ear is entitled to return the hearing aid for any reason; provided, that such aid is returned in

satisfactory condition, and such purchaser shall pay only reasonable charges for the hearing aid and related services. Such return privileges apply only to a first-time purchaser of a hearing aid.

(b) Charges to be imposed upon return of a hearing aid as provided in subsection (a) shall be clearly stated in the bill of sale.

(c) This section shall not be construed to supersede any duly promulgated regulation issued by the federal trade commission.

Section \_\_\_\_\_. When engaging in assessment, selection, fitting and sale of amplification systems or other assistive devices and technologies, a licensed audiologist shall perform such activities in compliance with the highest standards of professional conduct specifically prescribed for such activities by the United States Food and Drug Administration, the Academy of Dispensing Audiologists, the American Academy of Audiology, the American Speech-Language-Hearing Association, and the Tennessee Board for Licensing Hearing Aid Dispensers. Through promulgation of rules, publication and distribution of pamphlets, and/or other appropriate means, the board shall periodically notify and update all licensed audiologists concerning the applicable standards of conduct enforced pursuant to this section.

Section \_\_\_\_\_. Tennessee Code Annotated, Section 63-17-111, is amended by adding the following language as a new, appropriately designated subsection:

( )

(1) Each audiologist licensed prior to July 1, 1994, who wishes to engage in the fitting and sale of hearing aids but who has not engaged in such activities during the five (5) year period immediately preceding July 1, 1994, must first demonstrate by means of practical examination sufficient competency to fit and sell hearing aids.

(2) Each audiologist licensed on or after July 1, 1994, who wishes to engage in the fitting and sale of hearing aids, must first demonstrate by means of practical examination sufficient competency to fit and sell hearing aids.

(3) The practical examination referred to in subsections (1) and (2) will be equivalent to or more stringent than the fitting and selling portions of the practical examination for competency administered by

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the board of licensing hearing aid dispensers.

AND FURTHER AMEND by deleting in the third line of the amendatory language of Section 4 the words "to practice" and by substituting instead the words "from practicing".

AND FURTHER AMEND by deleting Section 7 in its entirety and by substituting instead the following new Section 7:

Section 7. Tennessee Code Annotated, Section 63-17-110, is amended by inserting the word "language" after the word "speech" wherever it appears in subsections (a) and (b)(1).

#### Senate Amendment No. 2

Amend House Bill No. 2657 by inserting the following as a new section immediately preceding the final section and by renumbering the final section accordingly:

#### SECTION \_\_.

(a) Tennessee Code Annotated, Section 63-17-114(2)(B), is amended by deleting the words and punctuation "employed by federal or state governmental agencies;" and by substituting instead the words and punctuation "employed by federal governmental agencies;".

(b) Tennessee Code Annotated, Section 63-17-114(8), is amended by deleting the words "under the supervision of a physician" and by substituting instead the words "under the direct supervision of a physician".

Rep. Arriola moved that the House concur in Senate Amendment(s) No(s). 1 and 2 to House Bill No. 2657, which motion prevailed by the following vote:

Ayes. . . . .	94
Noes. . . . .	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams

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(Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

A motion to reconsider was tabled.

HOUSE ACTION ON SENATE AMENDMENTS

House Bill No. 2569 -- Taxes, Privilege -- Exempts churches and nonprofit corporations from privilege tax imposed upon retail rental of private passenger motor vehicles. Amends TCA, Title 67, Ch. 4, Pt. 19.

Senate Amendment No. 1

Amend House Bill No. 2569 by deleting Section 1 of the bill in its entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, Part 19, is amended by adding a new section thereto, as follows:

SECTION \_\_\_\_\_. The provisions of this part shall not apply to the rental of motor vehicles to a church, or the rental of motor vehicles to a nonprofit religious organization which has received a determination of exemption from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code and is currently operating under it; provided the church or non-profit religious organization holds a current certificate of sales or use tax exemption from the Department of Revenue pursuant to Section 67-6-322.

Rep. Garrett moved that the House concur in Senate Amendment(s) No(s). 1 to House Bill No. 2569, which motion prevailed by the following vote:

Ayes. . . . .	95
Noes. . . . .	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams

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(Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

Representatives voting no were: Callicott -- 1.

A motion to reconsider was tabled.

**HOUSE ACTION ON SENATE MESSAGE**

**\*Senate Bill No. 2725 -- Custody and Support -- Permits alimony in futuro to end upon remarriage. Amends TCA 36-5-101. by \*Haynes.**

Further consideration of Senate Bill No. 2725, previously considered on today's Message Calendar.

Rep. Robinson moved that Senate Bill No. 2725 be reset to the Message Calendar for Wednesday, April 13, 1994, which motion prevailed.

**UNFINISHED BUSINESS**

**RULES SUSPENDED**

Rep. Stulce moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 652 out of order, which motion prevailed.

**House Joint Resolution No. 0652 -- Memorials, Personal Occasion -- Mr. and Mrs. Raymond Hargis, 60th wedding anniversary. by \*Stulce.**

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Stulce, the resolution was adopted.

A motion to reconsider was tabled.

**BILL RECALLED NOTICE**

Pursuant to Rule No. 53, Rep. Ritchie filed notice of intent to recall House Bill No. 2676 from the State and Local Government Committee and place it at the head of the floor calendar for Thursday, April 14, 1994.

**BILL RETURN REQUESTED**

Pursuant to Rule No. 54, Rep. Chiles moved that the Clerk request the return of Senate Bill No. 1871 from the Senate, which motion prevailed. He further requested that it be placed on the Message Calendar for Wednesday, April 13, 1994.

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**NOTICE TO ACT ON SENATE MESSAGES**

Pursuant to the suspension of Rule No. 59, notice was given that the following measure(s) from the Senate would be considered on Wednesday, April 13, 1994:

House Bill No. 691; Senate Bill No. 1681, House Bills Nos. 1704, 2174, and 2558; Senate Bill No. 2611.

**BILLS WITHDRAWN**

On motion of Rep. Naifeh, House Bill No. 2922, held on the desk, was withdrawn from the House.

**REPORT OF DELAYED BILLS COMMITTEE  
April 11, 1994**

Pursuant to Rule No. 77, we the undersigned members of the Delayed Bills Committee have approved the following bill(s) to be introduced: House Bill(s) No(s). 2921, 2927 and 2929.

Jimmy Naifeh, Speaker  
Bill Purcell  
H. E. Bittle

**RULES SUSPENDED**

Rep. Purcell moved that House Bill(s) No(s). 2045 be referred to the Judiciary Committee, which motion prevailed.

Rep. Purcell moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Bill(s) No(s). 2900, 2045 and 2920 could be heard by the Judiciary Committee on Tuesday, April 12, 1994, which motion prevailed.

**RULES SUSPENDED**

Rep. Purcell moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 647 could be heard by the Commerce Committee on Tuesday, April 12, 1994, which motion prevailed.

**RULES SUSPENDED**

Rep. Purcell moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 580 could be heard by the Finance, Ways and Means Committee on Tuesday, April 12, 1994, which motion prevailed.

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**RULES SUSPENDED**

Rep. Buck moved to suspend **Rule No. 80(1)**, relative to the time for placing bills on notice in Committee, so that House Bill(s) No(s) 2756 and 2763 could be heard by the Criminal Practice subcommittee of Judiciary Committee on Tuesday, April 12, 1994, and if recommended out, could be placed on the full Judiciary Committee calendar on that day.

**RULES SUSPENDED**

Rep. Buck moved to suspend **Rule No. 80(1)**, relative to the time for placing bills on notice in Committee, so that House Bill(s) No(s) 2177 could be heard by the Civil Practice subcommittee of Judiciary Committee on Tuesday, April 12, 1994, and if recommended out, could be placed on the full Judiciary Committee calendar on that day, which motion prevailed.

**RULES SUSPENDED**

Rep. Purcell moved that the rules be suspended for the introduction and passage on first consideration of House Bills Nos. 2927 and 2929, which motion prevailed.

**\*House Bill No. 2927 -- Auctions and Auctioneers --** Authorizes Tennessee auctioneer commission to waive requirements related to apprentice auctioneer in cases where commission determines such waiver is appropriate. Amends TCA 62-19-111. by \*Williams Micheal.

**\*House Bill No. 2929 -- Education, Higher --** Exempts Moody Bible Institute from Postsecondary Education Authorization Act. Amends TCA 49-7-2004. by \*Cole Ralph.

**RULES SUSPENDED**

Rep. Love moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 348 out of order, which motion prevailed.

**\*Senate Joint Resolution No. 0348 -- Naming and Designating --** "State Employee Week," June 19-25, 1994.

On motion, the rules were suspended for the immediate concurrence in the resolution.

On motion of Rep. Love, the resolution was concurred in.

A motion to reconsider was tabled.



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**RULES SUSPENDED**

Rep. Purcell moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 667 could be heard by the Transportation Committee on Tuesday, April 12, 1994, which motion prevailed.

**RULES SUSPENDED**

Rep. Purcell moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Joint Resolution No. 663 could be heard by the Transportation Committee on Tuesday, April 12, 1994, which motion prevailed.

**RULES SUSPENDED**

Rep. Bragg moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that bills coming from other committees could be heard by the Finance, Ways and Means Committee on Tuesday, April 12, 1994, which motion prevailed.

**RULES SUSPENDED**

Rep. Purcell moved to substitute House Joint Resolution No. 666 for House Joint Resolution No. 413, which motion prevailed.

The House Joint Resolutions were introduced as follows:

**\*House Joint Resolution No. 0666 -- General Assembly --** Creates special joint committee to assist interested municipalities and counties in obtaining designation as federal empowerment zones and/or enterprise communities and to ensure that such applications are thoughtfully prepared, competitively presented and favorably considered.

**\*House Joint Resolution No. 0413 -- General Assembly, Studies --** Creates special legislative task force relative to federal empowerment zone grants.

**MESSAGE FROM THE SENATE**  
**April 11, 1994**

**MR. SPEAKER:** I am directed to return to the House, House Bill(s) No(s). 2114, 2555 and 2842; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

**CLYDE W. McCULLOUGH, JR., Chief Clerk.**

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MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2093, 2269, 2590 and 2634; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 399, 611, 612, 613, 614, 615 and 616; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2773; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

ENGROSSED BILLS  
April 11, 1994

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 586, 587, 589, 590, 591, 643 and 644.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ENGROSSED BILLS  
April 11, 1994

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 2306, 2736, 2903; also, House Joint Resolution(s) No(s). 645, 646, 648, 649, 650 and 653.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE  
April 11, 1994

MR. SPEAKER: I am directed to return to the House, House

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Bill(s) No(s). 2306; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**MESSAGE FROM THE SENATE**  
**April 11, 1994**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 416; for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**SIGNED**  
**April 11, 1994**

The Speaker signed the following: Senate Joint Resolution(s) No(s). 416.

**MESSAGE FROM THE SENATE**  
**April 11, 1994**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1764, 2220 and 2508; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**MESSAGE FROM THE SENATE**  
**April 11, 1994**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 586, 587, 589, 590 and 591, substituted for Senate Joint Resolutions on same subjects; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**MESSAGE FROM THE SENATE**  
**April 11, 1994**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 643 and 644; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

**ENGROSSED BILLS**  
**April 11, 1994**

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 1313, 1670, 1766, 1887, 2049, 2134, 2418, 2507 and 2725; also, House Joint Resolution(s) No(s). 173 and 652.

BETTY KAY FRANCIS, Chief Engrossing Clerk.  
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**SPONSORS ADDED**

Under Rule No. 43, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

**House Bill No. 179:** Rep(s). Kent, Crain and Ferguson as prime sponsor(s).

**House Bill No. 1190:** Rep(s). Kent, Crain and Ferguson as prime sponsor(s).

**House Bill No. 1247:** Rep(s). Kent, Peroulas Draper, Lewis, Buck, Winningham and Williams (Union) as prime sponsor(s).

**House Bill No. 1644:** Rep(s). Givens and Williams (Union) as prime sponsor(s).

**House Bill No. 1607:** Rep(s). Windle as prime sponsor(s).

**House Bill No. 1683:** Rep(s). Brooks as prime sponsor(s).

**House Bill No. 1717:** Rep(s). Cross, Pinion, Thompson, Givens, Ridgeway and Arriola as prime sponsor(s).

**House Bill No. 2153:** Rep(s). Arriola as prime sponsor(s).

**House Bill No. 2276:** Rep(s). Arriola, Givens and Stamps as prime sponsor(s).

**House Bill No. 2355:** Rep(s). Walley as prime sponsor(s).

**House Bill No. 2415:** Rep(s). Naifeh, Head, Purcell, Knight, Cole (Carter), Bragg, Mires, Peroulas Draper, Whitson, Haun, McAfee, Turner (Hamilton) and Robinson as prime sponsor(s).

**House Bill No. 2442:** Rep(s). Givens as prime sponsor(s).

**House Bill No. 2457:** Rep(s). Bell and Peroulas Draper as prime sponsor(s).

**House Bill No. 2566:** Rep(s). Arriola as prime sponsor(s).

**House Bill No. 2568:** Rep(s). Westmoreland, Mires, Bell, Windle, Joyce, Peroulas Draper, Cole (Carter), Arriola and Davis as prime sponsor(s).

**House Bill No. 2569:** Rep(s). Peroulas Draper and Whitson as prime sponsor(s).

**House Bill No. 2676:** Rep(s). Stockburger as prime sponsor(s).

**House Bill No. 2737:** Rep(s). Ramsey and Thompson as prime sponsor(s).

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**House Bill No. 2833:** Rep(s). Knight, Walley, Westmoreland, Winningham, Tindell, Williams (Union), Peroulas Draper, Whitson, Mires, Lewis, Callicott, Fowlkes, Love, Ridgeway, Bittle, McDaniel, Cross, Fisher, Phillips, Winningham, Jones R (Shelby), Crain, Garrett, Buck, DeBerry and Chumney as prime sponsor(s).

**House Bill No. 2920:** Rep(s). Crain, Ferguson and Kent as prime sponsor(s).

**REQUEST TO BE ADDED AS SPONSOR**

The following member(s) requested to add their name(s) as sponsor(s) as indicated below, the prime sponsor having agreed to such addition. Sponsorship was not granted since request was made after passage/adoption of said bill/resolution:

**House Bill No. 2866:** Rep(s). Haley.

**SPONSORS REMOVED**

On motion, Rep(s). Buck was/were removed as sponsor(s) of **House Bill No. 2920.**

**CONSENT CALENDAR**

**April 11, 1994**

The following local bills have been placed on the Consent Calendar for **Wednesday, April 13, 1994:** House Bill(s) No(s). 2905, 2906, 2907, 2915, 2916, 2917 and 2918.

**ROLL CALL**

The roll call was taken with the following results:

Present . . . . . 96

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones R (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

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On motion of Rep. Purcell, the House recessed until 1:00 p.m.,  
Wednesday, April 13, 1994.